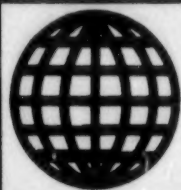


JPRS-EER-90-115-S  
13 AUGUST 1990



**FOREIGN  
BROADCAST  
INFORMATION  
SERVICE**

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# ***JPRS Report***

## ***Supplement***

# **East Europe**

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***POLAND:  
Recent Legislation II***

# East Europe SUPPLEMENT POLAND Recent Legislation II

JPRS-EER-90-115-S

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13 AUGUST 1990

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**Law Delimiting Voivode, Voivodship  
Administrative Powers Published**

90EP0602A Warsaw *DZIENNIK USTAW* in Polish  
No 21, Item 123, 6 Apr 90 pp 273-277

[Law No. 123 dated 22 March 1990 governing Regional  
Bodies of General Government Administration]

[Text]

**Chapter 1. General Provisions**

Article 1. The purposes of local state administration are implemented by:

- 1) Voivodes and the agencies subordinate to them, as agencies of general administration.
- 2) Local agencies of state administration under the direct jurisdiction of ministers of state, as agencies of special administration.
- 3) Gmina [rural township] bodies insofar as they execute duties recommended to them by the state.

Article 2.1. The voivode represents the state on the area of the voivodship.

2.2. The voivode supervises local self-government bodies by the procedure and within the scope defined in separate decrees.

Article 3.1. The voivode considers individual matters within his scope of competences.

3.2. The voivode is, in administrative proceedings, a higher instance as construed by the Code of Administrative Proceedings with respect to:

- 1) Directors of district offices of general state administration.
- 2) Local self-government bodies insofar as their execution of duties recommended by the state is concerned.

Article 4.1. The voivode's scope of competences includes all matters relating to state administration in the voivodship insofar as they do not fall within the jurisdiction of other agencies of state administration.

4.2. The duties and competences of the voivode are defined by decrees.

4.3. The voivode issues executive orders, ordinances, and administrative decisions.

Article 5. The voivode is appointed and recalled by the chairman of the Council of Ministers on the recommendation of the minister proper for administrative affairs.

Article 6.1. The vice voivode substitutes for the voivode.

6.2. The vice voivode is appointed and recalled by the chairman of the Council of Ministers on the recommendation of the voivode.

6.3. The vice voivode exercises duties and competences within a scope defined by the voivode. If a voivode is unable to exercise his duties, the scope of competences of the vice voivode is extended to all the duties and competences of the voivode.

Article 7. The voivode may authorize, in writing, employees of the voivodship administration to attend to specified matters on his behalf, within a specified scope, and in particular to issue administrative decisions.

Article 8.1. The voivode may delegate certain of his competences, including the issuance of administrative decisions in the first instance, to the bodies of gminas located within the voivodship, as well as to the directors of state legal entities and other state organizational units operating on the area of the voivodship.

8.2. In particular cases the voivode may delegate duties other than the issuance of administrative decisions to other appropriate units.

8.3. The delegation referred to in Paragraph 1 takes place by way of an agreement published in the official journal of the voivodship. Article 9. Whenever this Decree refers to:

- 1) Ministers of state, it is understood to also refer to central agencies of state administration.
- 2) Agencies of special administration, it is understood to refer to the local agencies of state administration that are under the direct jurisdiction of ministers, directors of state legal entities and other state organizational units or their local branches, to the extent to which they exercise the duties of state administration.
- 3) Local agencies of state administration, it is understood to refer to agencies of general and special state administration.

**Chapter 2. The Voivode as a Representative of the State**

Article 10.1. As a representative of the state, the voivode:

- 1) Coordinates the activities of the agencies of state administration operating in the voivodship so as to make them consonant with government policy.
- 2) Organizes the monitoring of the execution, in the voivodship, of the duties of state administration ensuing from decrees, ordinances, resolutions, and orders of the central agencies of state administration.
- 3) Assures the cooperation of the organizational units operating in the voivodship as regards the maintenance of public order and the prevention of natural disasters and the elimination of their consequences.
- 4) May present for deliberation by the government draft government documents on matters concerning the voivodship.

5) Represents the government at state festivities and when receiving official visits to the voivodship by representatives of foreign countries.

10.2. The voivode as a representative of the government exercises duties assigned by the Council of Ministers.

Article 11.1. The voivode may demand information and clarification from the agencies of special administration operating in the voivodship.

11.2. In particularly justified cases, when a delay is detrimental to public interest, the voivode or a voivodship office employee he authorizes can personally investigate the progress of the matters handled by the agencies referred to in Paragraph 1.

Article 12. The voivode periodically convenes conferences of local agencies of state administration in the voivodship with the object of coordinating their actions and implementing the government's policies.

Article 13. The agencies of special administration operating in the voivodship are dutybound to coordinate with the voivode the drafts of their general legal acts as well as of any other acts that are of importance to implementing the government's policies.

Article 14. In particularly justified cases the voivode may suspend for a specified period of time the operations of any agency handling administrative execution. The provision of Article 7 does not apply in this case.

Article 15. In the event that the voivode's position cannot be reconciled with the position of agencies of special administration, disputed issues are resolved by the Chairman of the Council of Ministers.

Article 16. The voivode makes recommendations on the appointment and recall of the [heads of] agencies of special administration subordinate to ministers of state, insofar as their scope of operations extends to the voivodship or to a part thereof.

### **Chapter 3. Cooperation Between the Voivode and the Self-Government Dietine**

Article 17. The voivode cooperates with the self-government dietine on matters relating to socioeconomic growth and land use management in the voivodship, environmental protection, and the satisfaction of the collective needs of the society, and in particular he:

1) Harmonizes the activities of local agencies of state administration with the activities of the dietine, in consonance with the directions of state policy.

2) Coordinates directions and forms of the implementation of common initiatives.

3) Considers the proposals, opinions, and recommendations which the dietine addresses to him.

Article 18. The voivode presents to the dietine, at least twice a year, a general report on his activities and in particular on his supervision of the local self-government bodies in the voivodship.

Article 19.1. The voivode presents to the dietine for evaluation draft local laws before promulgating them, with the exception of public-order regulations.

19.2. If the self-government dietine makes no recommendation on the matters referred to in Paragraph 1 within 14 days, the conclusion is that the dietine has not availed itself of its right in this respect.

### **Chapter 4. Local Law**

Article 20.1. The voivode promulgates regulations that are binding in the voivodship or in a part thereof (local law), pursuant to the powers delegated to him by:

1) Special decrees.

2) Article 22 of this Decree.

20.2. The power to issue local laws granted on the basis of the decrees referred to in Paragraph 1, Point 1) applies if the subject of the regulations is to be matters or a technical-organizational or special nature that require considering local conditions or needs or frequent changes in regulating them.

Article 21. The voivode promulgates local-law regulations in the form of executive orders and ordinances.

Article 22.1. In cases not covered by special regulations, if so necessitated to protect the life or health of citizens, to protect property, or to safeguard public order, the voivode may issue ordinances prescribing, for a specified period of time, prohibitions against or orders for a particular mode of conduct.

22.2. The ordinances may specify fines for violating their provisions, with the fines to be imposed by the procedure and on the principles defined in the law on petty offenses.

Article 23. A copy of the voivode's ordinance is immediately transmitted to the Chairman of the Council of Ministers.

Article 24.1. The voivode's ordinances are, with the proviso of Article 25, Paragraphs 1 and 2, published in the official journal of the voivodship; the publication date of the journal is the date of their legal promulgation.

24.2. The voivode's ordinances take effect 14 days from the day of their promulgation, unless a special decree or the ordinance itself specifies otherwise.

Article 25.1. The voivode's ordinances are publicized in the mass media and by means of wall posters or by other customary local means. The ordinances take effect on the day when they are thus publicized.



25.2. In the event that the nature of a regulation contained in the voivode's ordinance, issued on the basis of an authorization granted by a special decree, is such that a delay in the effective date of the ordinance may cause irreversible losses or major damage to the life, health, or property of citizens, the voivode may order the publicization and enforcement of this ordinance by the procedure and on the principles defined in Paragraph 1.

25.3. The voivode's ordinances referred to in Paragraphs 1 and 2 are also subject to publication in the official journal of the voivodship; the provision of [Paragraph 2 of] Article 24 does not apply.

Article 26.1. The voivode issues the official journal of the voivodship.

26.2. The journal referred to in Paragraph 2 publishes:

- 1) Ordinances and executive orders of the voivode.
- 2) Acts of the Chairman of the Council of Ministers waiving the ordinances and executive orders of the voivode.
- 3) Gmina [rural township] regulations, to the extent defined in a separate decree.
- 4) Other legal acts and information (announcements) if so provided by special provisions or decided by the voivode.

26.3. The Chairman of the Council of Ministers defines by means of an executive order the procedure and principles for the publication and dissemination of the journals referred to in Paragraph 1.

26.4. Voivodship and district administrative offices keep on file collections of official journals of voivodships, and make them accessible to the public.

Article 27. The Council of Ministers defines the detailed principles and procedure for the drafting and evaluation of and consultation on local-law acts as well for their publication.

#### **Chapter 5. The Voivodship Administrative Office**

Article 28.1. The voivodship administrative office provides assistance to the voivode.

28.2. Within the voivodship administrative office are formed departments and other equivalent organizational sections, with allowance for:

- 1) Local needs and conditions.
- 2) Nature of purposes.
- 3) Requirements for a law-abiding, effective, and economical operation of the office.
- 4) Other requirements for a rational formation of organizational structures.

28.3. In cases justified by the needs of an efficient operation of the office, internal organizational units such as sections, desks, or autonomous positions, may be created within the office's departments.

Article 29. To streamline the services of the general government administration to the public, the voivode may establish local branches of the voivodship administrative office.

Article 30.1. In cases justified by special needs of organization of labor, the voivode may appoint a personal representative with special powers to handle a particular issue.

30.2. If the personal representative is appointed for an indefinite period of time, his/her appointment and the scope of his/her power are taken into consideration in the statute of the voivodship administrative office.

Article 31.1. The director of the voivodship administrative office assures its efficient functioning, operating conditions, and organization of labor.

31.2. The director of the voivodship administrative office may also, on behalf of the voivode and in consonance with his recommendations, perform other duties relating to the management of the office.

Article 32.1. A collegium serving as an advisory and opinionmaking body operates under the voivode.

32.2. The collegium consists of: the deputy voivode, the director of the voivodship administrative office, directors of departments and equivalent units of the voivodship administrative office, and other persons appointed by the voivode.

32.3. The chairman of the self-government dietine is invited to participate in the sessions of the collegium.

32.4. The operating procedures of the collegium are defined in the statute of the voivodship administrative office.

Article 33.1. The organizational structure of the voivodship administrative office is defined in the statute conferred by the voivode by means of an executive order.

33.2. The statute referred to in Paragraph 1 is subject to confirmation by the appropriate minister for administrative affairs.

33.3. The statute takes effect on the day of its confirmation.

Article 34.1. The statute of the voivodship administrative office defines:

- 1) The name and location of the office.
- 2) A list of positions of department directors and their deputies as well as of equivalent positions.
- 3) A list of departments and other organizational units of the office.

4) Scopes of activities of the departments and other organizational units of the office.

5) A list of the agencies and organizational units subordinated to or supervised by the voivode.

6) Other matters essential to the organization and operation of the office.

34.2. A change in the statute of the voivodship administrative office consisting in complementing the scopes of activities of the departments or other equivalent organizational units of the office with new duties imposed by law on the voivode, and an updating of the list of units subordinated to the voivode or supervised by his office, does not require the confirmation referred to in Article 33, Paragraph 2.

Article 35.1. The detailed organizational chart and operating procedure of the voivodship administrative office are determined by rules specified in an executive order of the voivode.

35.2. The statute and rules of the voivodship administrative office are available for public inspection.

#### **Chapter 6. District Offices of the General Government Administration**

Article 36.1. The directors of district offices exercise the duties and powers of the general government administration defined in special decrees.

36.2. The proper minister for administrative affairs determines, by means of an executive order, upon consulting the voivodes, the location and territorial scope of activities of the district offices, a scope that may not violate gmina boundaries.

Article 37.1. The district office serves to provide assistance to its director.

37.2. The organizational units of the district office are sections, subsections, desks, of autonomous positions.

37.3. The organizational structure of the district office is determined in the statute conferred on it by the voivode.

37.4. The statute of the district office contains the provisions referred to in Article 34, Paragraph 1, Points 1) to 4) and 6).

37.5. The provisions of Article 35, Paragraph 2, apply correspondingly.

Article 38. The district office director and his deputy are appointed and recalled by the voivode.

Article 39. The district office director may authorize in writing his subordinates to attend to specified matters on his behalf, to a specified extent, and in particular to issue administrative decisions.

Article 40. 1. The district office director may, with the consent of the voivode, delegate certain of his powers, including the issuance of administrative decisions in the

first instance, to the bodies of the gmina located within the administrative boundaries of the office, as well as to the directors of state legal entities and other state organizational units operating within the administrative boundaries of the office.

40.2. In special cases the implementation of duties other than the issuance of administrative decisions may also be delegated to other appropriate units.

40.3. The delegation referred to in Paragraph 1 takes place by means of an agreement published in the official journal of the voivodship.

#### **Chapter 7. Direction and Supervision**

Article 41.1. The Council of Ministers directs the activities of the voivode as a representative of the Government and defines the principles for the exercise of his duties and powers.

41.2. The Chairman of the Council of Ministers issues to the voivode official recommendations and executive orders and monitors the consonance of his activities with the policies of the government.

Article 42.1. Supervision of the activities of the voivode as a representative of the general government administration is exercised by the Chairman of the Council of Ministers and the ministers.

42.2. Supervision of the activities of the voivode is based on the criterion of legality, consonance with the government's policies, and also integrity, efficiency, and sound management.

Article 43.1. The Council of Ministers periodically evaluates the activities of the voivode as a representative of the government general administration and the government.

43.2. The voivode presents to the Council of Ministers a report on his activities, within the scope defined by the minister proper for administrative affairs as authorized by the Council of Ministers.

Article 44. In addition to his supervisory powers ensuing from the provisions of this Decree and of special decrees, the Chairman of the Council of Ministers:

1) Waives the executive orders and ordinances of the voivode if they are inconsonant with the decrees and acts promulgated to implement them.

2) May waive the voivode's legal acts referred to in Point 1) on the grounds of the inconsonance of these acts with government policy or violation of the principles of integrity, efficiency, and sound management.

3) Resolves issues in dispute between the voivode and the ministers.

Article 45.1. The minister proper for administrative affairs:

1) Presents draft decisions on direction and supervision that belong within the competences of the Council of Ministers and its chairman.

2) Resolves issues disputed among voivodes.

45.2. The minister referred to in Paragraph 1 provides the voivode with professional assistance in organizing his work and the work of the office he directs.

45.3. The minister proper for administrative affairs defines the operating guidelines for the local offices of agencies of state administration.

Article 46.1. Ministers of state supervise, within the scope of their competences, the activities of the voivode by the means specified in decrees, and in particular they waive, revise, or invalidate the voivode's decisions in accordance with the provisions governing administrative proceedings.

46.2. On matters referred to in Paragraph 1, ministers of state provide the voivode with professional assistance in exercising his duties and define the technical rules for their exercise.

Article 47. The voivode directs and supervises the directors of district offices on the basis of the powers and competences envisaged in special decrees and the appropriate powers and competences belonging to the Chairman of the Council of Ministers and ministers of state with respect to the voivode on the basis of this Decree.

Article 48. The Chairman of the Council of Ministers determines the detailed procedure for monitoring the voivode's executive orders and ordinances.

#### Chapter 8. Administrative Boundaries

Article 49.1. The basic-level administrative units are the gminas.

49.2. The basic-level administrative unit for exercising government administration is the voivodship. Its auxiliary subunit is the administrative district, formed by the procedure and on the principles defined in Article 36, Paragraph 2.

Article 50.1. The creation and abolition of voivodships, their naming and renaming, and the location of the office of the voivode are implemented by means of decrees.

50.2. The boundaries of a voivodship are changed by an ordinance of the Council of Ministers, upon consulting the concerned voivodes and the gminas which these changes affect, as well as upon the public consultation of the inhabitants of the areas affected by the changes.

50.3. The list of the voivodships existing on the effective date of this Decree is contained in the Supplement to this Decree.

Article 51.1. To meet the needs of particular fields of state administration or for other socially warranted purposes, special decrees may provide for special administrative boundaries.

51.2. Special administrative boundaries should not violate the boundaries of the basic-level administrative units.

51.3. The determination of and changes in special administrative boundaries require consulting the minister proper for administrative affairs.

Article 52.1. The naming and renaming of localities and physiographic objects take place by means of an ordinance of the minister proper for administrative affairs upon consulting the concerned gmina council.

52.2. The ordinance referred to in Paragraph 1 is published in *DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ* 'MONITOR.'

#### Chapter 9. Provisional and Final Regulations

Article 53.1. The competences of the voivodes are expanded with the legally prescribed duties and competences heretofore belonging to the voivodship people's councils and voivodship-level local agencies of general and special state administration, insofar as these duties and competences have not been transferred by separate decrees to local self-government bodies or other bodies.

53.2. Transferred to district office directors are the duties and competences of the basic-level local agencies of special and general state administration, exercised by virtue of special decrees by the district agencies of state administration, insofar as these duties and competences have not been transferred by separate decrees to local self-government bodies or other bodies.

Article 54.1. The voivodes shall determine and publish, by 31 December 1990, a list of local-law acts promulgated by the voivodship people's councils and voivodship-level local agencies of general and special state administration before the effective date of this Decree, which remain binding after said date.

54.2. The acts not included in the list referred to in Paragraph 1 cease to be applicable on the day of publication of that list.

54.3. The provision of Paragraph 1 does not apply to the provisions of local law promulgated by the people's councils of the cities of Capital City of Warsaw, Krakow, and Lodz, and by the mayors of these cities, on the principles defined in Article 26 of the Decree of 20 July 1983 on the System of People's Councils and Local Self-Government (DZ.U. No. 26, Item 183, 1983, and No. 34, Item 178, 1989). The scope of the applicability of these provisions shall be determined and published by the concerned self-government bodies of these cities, by the procedure and on the principles defined in a separate decree.

Article 55.1. Persons appointed to the positions of voivodes and deputy voivodes by the procedure defined in previous regulations retain these positions until they are recalled by the procedure specified in Articles 5 and 6.

55.2. Persons appointed to the positions of mayors and vice mayors of the Capital City of Warsaw, Krakow, and Lodz by the procedure defined in previous regulations become, by virtue of law, correspondingly, the voivodes and deputy voivodes of Warsaw, Krakow, and Lodz, and they retain these posts until recalled by the procedure specified in Articles 5 and 6.

Article 56.1. Voivodship administrative offices, excepting those of Warsaw, Krakow, and Lodz, which operate on the effective date of this Decree become voivodship administrative offices as construed by this Decree.

56.2. Until the statutes of the voivodship administrative offices which become voivodship administrative offices as construed by this Decree are determined, these offices operate on the basis of their previous statutes, but not longer than six months after the effective date of this Decree.

56.3. The mayors of the Capital City of Warsaw and of Krakow and Lodz shall organize, before the Decree on Local Self-Government takes effect, voivodship administrative offices in Warsaw, Krakow, and Lodz.

Article 57. If it becomes necessary to reduce employment in the voivodship administrative offices referred to in Article 56, this shall take place in accordance with the provisions of the Decree on Employees of State Offices concerning the elimination of an office. Persons laid off from an office also are entitled to the rights of employees discharged owing to the shutdown of a workplace.

Article 58. The obligations and encumbrances of voivodship people's councils incurred after 1 January 1989 shall be transferred to the State Treasury upon the effective date of this Decree.

Article 59. This Decree takes effect on the day the Decree on Local Self-Government takes effect, with the exception of Article 56, Paragraph 3, which takes effect on the day of publication.

President of the Polish Republic: W. Jaruzelski

#### **Justice Ministry Publishes Uniform Text of Supreme Court Law**

90EP0601A Warsaw *DZIENNIK USTAW* in Polish  
No 26, Item 153, 24 Apr 90 pp 345-352

[Announcement No. 153 of the Ministry of Justice on publication of the uniform text of the law dated 20 September 1984 governing the Supreme Court]

[Text] 1. Pursuant to Article 16 of the Decree of 20 December 1989 on Revising the Decrees Concerning the

Law on the System of Common Courts, on the Supreme Court, on the Superior Administrative Court, on the Constitutional Tribunal, and on the System of Military Court, as well as the Law on Notaries Public (Dz.U., No. 73, Item 436), the Supplement to this Announcement contains the uniform text of the Decree of 20 September 1984 on the Supreme Court (Dz.U., No. 45, Item 241), with allowance for the revisions introduced by:

1) The Decree of 24 May 1989 on the Examination of Economic Cases by the Courts (Dz.U., No. 33, Item 175).

2) The Decree of 20 December 1989 on Revising the Decrees Concerning the Law on the System of Common Courts, on the Supreme Court, on the Superior Administrative Court, on the Constitutional Tribunal, and on the System of Military Court, as well as the Law on Notaries Public (Dz.U., No. 73, Item 436).

3) The decree of 22 March 1990 on Revising the Decree on the Procurature of the Polish People's Republic, the Code of Proceedings with Respect to Petty Offenses, and the Decree on the Supreme Court (Dz.U., No. 20, Item 121); as well as for the revisions ensuing from the regulations promulgated prior to the day of the publication of the uniform text, and upon retaining the sequential numbering of chapters, articles, paragraphs, and points.

2. The uniform text of the decree provided in the Supplement to this Announcement does not include the following provisions:

1) Articles 77 and 79 of the Decree of 20 September 1984 on the Supreme Court (Dz.U., No. 45, Item 241), which are worded as follows:

"Article 77. The following revisions are introduced in the Code of Civil Proceedings:

1) In article 48 the following Paragraph 3 is added:

"Paragraph 3. A judge who participated in issuing a ruling to which a petition for revival of proceedings refers, or to which an extraordinary appeal against a final sentence refers, may not rule on said petition or appeal."

2) In Article 420 the following Paragraphs 3 and 4 are added:

"Paragraph 3. Extraordinary appeals against final rulings of the Supreme Court are examined by a bench of seven justices of the Supreme Court.

"Paragraph 4. Extraordinary appeals against final rulings of the Superior Administrative Court are examined by a bench of five justices of the Supreme Court."

"Article 79. This Decree takes effect on the day of its publication";

2) Articles 9-12 and Article 18 of the Decree 20 December 1989 on Revising the Decrees Concerning the Law on the System of Common Courts, on the Supreme



Court, on the Superior Administrative Court, on the Constitutional Tribunal, and on the System of Military Court, as well as the Law on Notaries Public (Dz.U., No. 73, Item 436), whose text follows:

"Article 9. The term of office of the Supreme Court existing on the effective date of this Decree expires on 30 June 1990.

"Article 10.1. The National Judiciary Council shall, within 3 months from the date it becomes operative, present to the President of the Polish People's Republic recommendations for the appointment of justices of the Supreme Court from among the following candidates:

"1) Justices of the Supreme Court whose tenure expires.

"2) Persons qualified for the post of justice of the Supreme Court and nominated by the Council within 1 month from the date it becomes operative, or nominated by: the First Chairman [Chief Justice] of the Supreme Court, the Minister for Justice, the Minister for National Defense, the Prosecutor General of the Polish People's Republic, general assemblies of justices of the Supreme Court, the Superior Administrative Court, and voivodship courts, the assembly of judges of military courts, the Supreme Bar Council, the National Council of Legal Advisers, law departments at higher educational institutions, and the Polish Academy of Sciences.

"10.2. The National Judiciary Council shall present recommendations for the appointment of Supreme Court justices with allowance for the division of the Supreme Court into chambers and upon considering the opinion of the collegium of the incumbent Supreme Court as to the number of justices needed in the individual chambers.

"Article 11.1. An incumbent Supreme Court justice who is not reappointed to his position after his tenure expires, following the effective date of this Decree, has the right to return to the post he had previously occupied or to be appointed to an equivalent post, unless there exist legal obstacles.

"11.2. The justice referred to in Paragraph 1 has the right to retire with a pension upon having worked for 25 years if a female or 30 years if a male.

"11.3. A Military Chamber justice whose tenure has not expired on the effective date of this Decree, but who is not subsequently reappointed to his post, is appointed, with his consent, to a suitable judgeship or to another post in the Armed Forces. In the event he withholds his consent, he is released from professional military service and retains all the rights belonging to military personnel discharged from service for reasons which do not result in the forfeiture of these rights. He is also entitled to other rights specified in this Decree.

"11.4. The justice referred to in Paragraph 1 has the right to receive the same salary for six months after the expiration of the term of office of the Supreme Court, with the proviso of Paragraph 5.

"11.5. In the event that the justice accepts a lower paying full-time job before the expiration of the period referred to in Paragraph 4, he is entitled to an equalization allowance equal to the difference between his previous salary as a justice and the emoluments he receives at his new workplace. The equalization pay applies until 23 May 1992, and it also applies to the First Chairman and chairmen of the Supreme Court.

"Article 12.1. General assemblies of justices of the Supreme Court and the Superior Administrative Court as well as a meeting of representatives of the general assemblies of voivodship court judges shall, within three months from the day the National Judiciary Council establishes the number of judges of disciplinary courts, elect the judges of these courts.

"12.2. Until the disciplinary courts are elected on the basis of this Decree, the disciplinary courts formed on the basis of previous regulations shall continue to function.

"12.3. Proceedings still under way at disciplinary courts before the day of elections to these courts on the basis of this Decree shall be completed by, depending on their nature, either the Disciplinary Court or the Higher Disciplinary Court.

"Article 18. This Decree takes effect on the day of its publication";

3. Article 13 of the Decree of 22 March 1990 on Amending the Decree on the Procurature of the Polish People's Republic, the Code of Proceedings in Cases of Petty Offenses, and the Decree on the Supreme Court (Dz.U., No. 20, Item 121), as follows:

"Article 13. This Decree takes effect on 31 March 1990."

Minister of Justice: A. Bentkowski.

#### **Supplement to the Announcement of 2 April 1990 of the Minister of Justice (Item 153)**

#### **[Uniform Text of the] Decree of 20 September 1984 on the Supreme Court**

#### **Chapter 1. General Provisions**

Article 1.1. The Supreme Court is the supreme judiciary body in the Polish Republic.

1.2. The Supreme Court exercises the administration of justice.

Article 2.1. The Supreme Court exercises supervision over the activities of all other courts as regards their rulings.

2.2. The Supreme Court examines cases to the extent prescribed by special regulations.



2.3. The Supreme Court assures the correctness and uniformity of interpretations of law and judicial practice in the fields in which it is competent.

2.4. The Supreme Court may make recommendations on drafts of decrees it receives.

Article 3. The offices of the Supreme Court are in Warsaw.

Article 4.1. The Supreme Court consists of the First Chairman, chairmen, and justices of the Supreme Court.

4.2. The number of the justices and chairmen of the Supreme Court is determined by the President of the Polish Republic [hereinafter referred to as the President] on the recommendation of the National Judiciary Council.

4.3. Whenever this Decree refers to justices of the Supreme Court, it also refers to the First Chairman and chairmen of this Court.

Article 5.1. The Supreme Court is divided into: the Chamber of Administration, Labor and Social Security, the Civil Chamber, the Criminal Chamber, and the Military Chamber.

5.2. The Chamber of Administration, Labor and Social Security exercises, within the limits and by the procedure defined by appropriate regulations, supervision over judicial rulings in cases concerning the labor law, inventions, social insurance, complaints about administrative decisions, and in cases transferred thereto pursuant to special regulations.

5.3. The Civil Chamber exercises, within the limits and by the procedure defined by appropriate regulations, supervision over judicial rulings concerning civil and economic cases.

5.4. The Criminal Chamber exercises, within the limits and by the procedure defined by separate regulations, supervision over judicial rulings in criminal cases belonging within the competences of common courts.

5.5. The Military Chamber exercises, within the limits and by the procedure defined by appropriate regulations, supervision over the rulings of military courts.

Article 6. Within the Supreme Court operate: the Rulings Office and the Presidial Office, and within the Military Chamber, the Office for Extra-Instance Supervision.

Article 7. The President defines by means of an executive order the organizational structure of the Supreme Court, the specific scopes of activities of the chambers, and the scopes of activities of the Rulings Office, the Presidial Office, and the Military Chamber's Office for Extra-Instance Supervision, as well as the internal procedural rules of the Supreme Court.

Article 8.1. Heading the Supreme Court is the First Chairman, who directs its work.

8.2. The First Chairman exercises the duties envisaged in the decree, in trial regulations, and the regulations issued on the basis of Article 7, and in addition he performs the activities of judicial administration with respect to the Supreme Court.

8.3. The First Chairman has the right of monitoring the activities of the Supreme Court; in this respect he can demand explanations and the elimination of errors.

8.4. The activities mentioned in Paragraph 3 may not encroach upon the domain in which the justices are independent.

Article 9.1. The chairmen of the Supreme Court are deputies of the First Chairman. Their rights and duties in this respect are defined in an executive order of the First Chairman.

9.2. The work of each of the chambers of the Supreme Court is directed by one of that Court's chairmen, as appointed for this role by the First Chairman.

9.3. Article 8, Paragraphs 2-4, applies correspondingly to the chairman of a chamber.

Article 10.1. The First Chairman of the Supreme Court advises the Sejm, upon the latter's demand, on the activities of the Supreme Court.

10.2. The First Chairman of the Supreme Court advises the President and the National Judiciary Council on major problems ensuing from the activities and rulings of that Court.

Article 11. The Supreme Court issues collections of its rulings containing decisions on major legal issues as well as resolutions inscribed in the book of legal principles.

Article 12. The justices of the Supreme Court, the members of the Rulings Office, and the clerical, auxiliary, and service staff of the Supreme Court are associated in trade unions and elect an employee council whose purpose it is to protect and represent their professional and social interests as well as to promote activities intended to improve their living, social, and cultural conditions.

## **Chapter 2. Procedure for the Performance of Duties by the Supreme Court**

Article 13. The Supreme Court performs its duties by:

1) Examining the means of appeal against judicial rulings in conformity with the provisions of adjective law.

2) Examining extraordinary appeals against judicial rulings and, by virtue of special regulations, against the rulings of other bodies.

3) Adopting resolutions intended to elucidate legal provisions that elicit doubts or whose application has led to divergent rulings.

4) Adopting resolutions that contain solutions of legal problems which elicit serious doubts in particular cases.

5) Examining other cases belonging within the competences of the Supreme Court by virtue of this Decree or of other decrees.

Article 14.1. In the event that, on examining a case, the Supreme Court finds evident infringements of regulations—irrespective of other rights—it rebukes the concerned court or other body. Before administering the rebuke, the Supreme Court may demand appropriate explanations. The finding of infringement and the imposition of rebuke have no effect on the resolution of the case.

14.2. The Supreme Court notifies about the rebuke the head of the concerned court or other body, and in the event of a grave infringement, also the head of the concerned superior body.

Article 15. Justices of the Military Chamber do not participate in examining means of appeal or extraordinary appeals for which another chamber is competent, while justices of the other chambers do not participate in examining means of appeal or extraordinary appeals for which the Military Chamber is competent.

Article 16.1. The resolutions mentioned in Article 13, Point 3) are adopted by: a bench of seven justices of the Supreme Court, by an entire chamber, by the combined chambers, or by the full bench of the Supreme Court.

16.2. The resolutions referred to in Paragraph 1 are adopted by the Supreme Court on the recommendation of: the First Chairman or a chairman of the Supreme Court, the Minister of Justice, and the Prosecutor General. In addition, in cases relating to the labor law and social security, the Supreme Court may adopt resolutions on the recommendation of the Minister of Labor and Social Policy, and in cases relating to administrative law, the Chairman of the Superior Administrative Court, and in cases relating to the law of inventions, the Chairman of the Patent Office of the Polish Republic.

16.3. The First Chairman directs a recommendation for a resolution to one of the bodies mentioned in Paragraph 1.

16.4. A bench composed of seven justices of the Supreme Court may submit a legal problem for consideration to the full bench of a chamber, while a chamber may submit it for consideration to either the combined chambers or the full bench of the Supreme Court.

Article 17.1. The courts and ruling benches of the Supreme Court defined in special regulations are authorized under Article 13, Point 4) to submit legal problems to the Supreme Court.

17.2. If a legal problem is submitted for a decision by a bench composed of three or five justices of the Supreme Court, the resolution mentioned in Article 13, Point 4) is adopted by a bench composed of seven justices, and,

when the problem is submitted by a bench composed of seven justices, the resolution is adopted by a full chamber.

17.3. In cases other than those defined in Paragraph 2, resolutions mentioned in Article 13, Point 4) are adopted by a bench of three justices of the Supreme Court, and when the legal problem is submitted by the Superior Administrative Court, by a bench composed of five justices. That bench may submit the problem for a decision to a bench composed of seven justices.

Article 18.1. Sessions of the full bench of the Supreme Court, the bench of the combined chambers, the bench of a single chamber, or a bench of seven justices of the Supreme Court may be attended by the agencies petitioning for the adoption of a particular resolution or by their authorized representatives. This does not apply to sessions at which the Supreme Court examines legal problems presented for decision by authorized courts.

18.2. At sessions of the full bench of the Supreme Court, the bench of the combined chambers, or the full bench of a chamber, attendance by the Prosecutor General or his deputy is mandatory. At sessions of the other benches attendance by a prosecutor from the Ministry of Justice, and at sessions of the Military Court, a prosecutor from the Higher Military Procurature, is mandatory.

Article 19.1. The adoption of a resolution by the full bench of the Supreme Court, by the bench of the combined chambers, or by the full bench of a chamber, requires a quorum of at least two-thirds of the justices from each chamber.

19.2. Resolutions are adopted in open voting by an ordinary majority of votes. In the event of a tie the chairman casts the deciding vote.

Article 20.1. The proper bench of the Supreme Court may, for justified reasons, decline to adopt a resolution—in particular, when a clarification is needed.

20.2. In the event a recommendation is withdrawn, the Supreme Court refrains from examining it.

Article 21. Resolutions adopted by the full bench of the Supreme Court, the bench of the combined chambers, or the bench of an entire chamber become binding legal principles, once they are passed. A bench composed of seven justices may decide to make its resolution a binding legal principle.

Article 22.1. If any bench of the Supreme Court intends to repudiate legal principle, it submits the resulting legal problem for a decision to the full bench of a chamber.

22.2. The repudiation of a legal principle resolved upon by a chamber or by the combined chambers or by the full bench of the Supreme Court requires a new ruling by means of a resolution adopted correspondingly by the concerned chamber, the combined chambers, or the full bench of the Supreme Court.

22.3. If the bench of one chamber of the Supreme Court intends to repudiate a legal principle adopted in a resolution by another chamber, the decision is taken through a joint resolution of both chambers. Chambers may submit the attendant legal problem for consideration by the full bench of the Supreme Court.

Article 23.1. The drafting of the opinions referred to in Article 2, Paragraph 4, is assigned by the First Chairman to the Rulings Office.

23.2. In order to draft opinions concerning proposals for legal acts of special importance, the First Chairman may appoint suitable teams of justices.

Article 24. Clerical duties are performed by clerical employees and other duties by the auxiliary and service staff of the Supreme Court.

### Chapter 3. Judicial Independence

Article 25. Justices of the Supreme Court are independent in exercising their judicial duties and subject only to law.

Article 26. A justice's independence does not preclude the duty of implementing recommendations concerning judicial administration. A justice may demand to be handed such recommendations in writing.

Article 27.1. A justice may not be detained or held responsible before the penal-judicial and administrative authorities without permission by the Disciplinary Court. This does not apply to detention in the event of the perpetration of a crime in flagrante delicto. Until a resolution that permits making the concerned justice penally-judicially or administratively accountable is issued, the justice may attend only to duties that brook no delay.

27.2. Until the recommendation for a permit to make the justice accountable is acted upon, the Disciplinary Court may recommend the immediate dismissal of a justice caught in flagrante delicto.

27.3. Within a period of 7 days from the issuance of a resolution refusing permission to make the justice penally-judicially or administratively accountable, the agency or person requesting the resolution and the disciplinary spokesman have the right to complain to the Higher Disciplinary Court. Within the same period of time the concerned justice has the right to appeal a resolution that permits making him criminally-judicially accountable.

27.4. A justice who commits petty offenses is merely subject to disciplinary action.

### Chapter 4. Appointment and Recall of Justices of the Supreme Court

Article 28.1. To be eligible for appointment to the post of justice of the Supreme Court, a person must:

- 1) Have Polish citizenship and full civil and civic rights.

- 2) Be of unquestioned integrity.

- 3) Have completed higher studies of law and earned a Master's degree in law.

- 4) Distinguish oneself by extensive legal knowledge and professional experience.

- 5) Have the qualifications for the post of a justice and in addition, a record of at least 10 years of work or service as a judge, a prosecutor, an arbiter, or a legal adviser, or as an attorney or in a decisionmaking government position associated with duties pertaining to legal practice, especially participation in rulings.

28.2. The requirement referred to in Paragraph 1, Point 5) does not apply to professors of juridical sciences at Polish institutions of higher education, at the Polish Academy of Sciences, or at other academic and research centers.

28.3. Only professional officers may be appointed to the posts of justices of the Military Chamber.

Article 29.1. Justices of the Supreme Court are appointed by the President on the recommendation of the National Judiciary Council.

29.2. The First Chairman of the Supreme Court is appointed from among justices of the Supreme Court and recalled by the Sejm of the Polish Republic on the recommendation of the President, while chairmen of the Supreme Court are appointed and recalled by the President.

Article 30.1. Persons related by ties of consanguinity up to the second remove inclusively or by ties of marriage up to the first remove as well as their spouses may not be justices of the Supreme Court in the same chamber, nor may they take part in the same ruling bench of justices and neither may they stand in a direct official superior-subordinate relationship.

30.2. A person whose spouse practices the profession of an attorney may not be a justice of the Supreme Court.

Article 31.1. The current employment of a candidate is terminated once he is handed an official notice of his appointment to the Supreme Court.

31.2. The justice should report to fill his position within 14 days from the date the notice of official appointment is received, unless another period of time is specified.

31.3. In the event of failure to fill the post within the period of time specified in Paragraph 2, the appointment ceases to be valid; this circumstance is established by the First Chairman of the Supreme Court.

Article 32.1. Upon his appointment, the justice of the Supreme Court deposes the following oath before the President:

"I solemnly pledge to use the post, entrusted to me, of Justice of the Supreme Court in order to serve faithfully

the Polish Nation, stand guard over law, fulfill the duties of my office conscientiously, administer justice impartially according to my conscience and in conformity with the provisions of law, respect state and service secrets, and guide myself in my conduct by principles of dignity and probity."

32.2. The provisions of Article 56, Paragraph 2, of the Decree on the Law of the System of Common Courts apply.

Article 33.1. On the recommendation of the National Judiciary Council the President recalls a justice of the Supreme Court if the latter:

- 1) Resigns his post.
- 2) Owing to illness, frailty, or decline of physical strength, becomes permanently unable to exercise the duties of a justice of the Supreme Court.
- 3) Exceeds 65 years of age, unless the National Judiciary Council, on the initiative of the First Chairman or on the justice's request, expresses its consent to continued exercise of duties, but only until the age of 70 is completed.

33.2. On the recommendation of the National Judiciary Council the President may recall a justice of the Supreme Court if, owing to illness and a paid leave taken to salvage his health, the latter absents himself from service for a period of more than 1 year; previous interruptions in exercise of duties for the same reasons are credited to this period of inaction if the period of active service does not exceed 30 days.

33.3. Before the recommendation for a recall owing to the reasons specified in Paragraph 1, Point 2) and Paragraph 2 is made, the opinion of the Supreme Court Collegium is consulted, and explanations by the concerned party are heard, unless that is not possible.

33.4. A justice of the Supreme Court may resign without an explanation. However, the justice may relinquish his post only after he receives an official notice of recall.

33.5. A justice of the Supreme Court who is recalled for the reasons mentioned in Paragraph 1, Point 1) has the right to resume his previously held position or be appointed to a position of equivalent rank unless there are any legal obstacles; he also has the right to have his name entered in the roster of attorneys-at-law without being subject to the restrictions which the decree on the Bar applies to other judges.

Article 34. A valid verdict of the disciplinary court in favor of expulsion from judgeship and a valid verdict of a court imposing the additional penalty of deprivation of public rights or prohibition against holding a judgeship entails, by virtue of law, the forfeiture of the post of justice of the Supreme Court; the justice's service is terminated once the verdict becomes final and valid.

Article 35. A justice of the Military Chamber may not be released from professional military service prior to his recall from the post of justice of the Military Chamber or prior to his forfeiture of that post.

Article 36.1. On the recommendation of the First Chairman, the Minister of Justice may delegate, for a period of three months in a calendar year, a justice of the Superior Administrative Court or of a voivodship court to perform the duties of a justice at the Supreme Court. The delegation of a justice of the Superior Administrative Court for this purpose requires consulting the chairman of that Court.

36.2. The powers of the Minister of Justice referred to in Paragraph 1 belong correspondingly to the Minister of National Defense as regards delegating military-court judges for the exercise of the duties of a justice of the Military Chamber of the Supreme Court.

36.3. On the recommendation of the First Chairman the Minister of Justice may delegate for an indefinite period of time a voivodship-court judge—with that judge's consent—for the performance of duties at the Rulings Office.

Article 37.1. A Supreme Court justice appointed to a particular chamber of the Supreme Court may be replaced with either another Supreme Court justice or a judge from another court delegated for this purpose.

37.2. A ruling bench of justices of the Supreme Court in any given case may include only one judge from another court, delegated as a substitute justice of the Supreme Court. The delegated judge may not chair the bench.

37.3. Judges delegated to perform the duties of justices of the Supreme Court may not take part in the sessions of the full bench of the Supreme Court, the combined chambers, or the bench of a chamber.

#### **Chapter 5. Rights and Duties of Justices of the Supreme Court**

Article 38.1. A justice is dutybound to act in conformity with his oath of service and consistently to upgrade his professional skills.

38.2. A justice should, in office and outside office, respect the gravity of the court and avoid anything that might be detrimental to the dignity of a judge or weaken trust in his impartiality.

38.3. While holding office the justice may not belong to any political party or take part in any political activity. The prohibition against political activity does not apply to Sejm deputies and senators.

Article 39. A justice's hours of work depend on the magnitude of his duties.

Article 40.1. A justice is dutybound to maintain confidentiality regarding the circumstances of a case with



whose details, other than those made public in court, he is familiar by virtue of his position.

40.2. The duty of maintaining confidentiality also applies once a justice no longer occupies his post.

40.3. The duty of maintaining confidentiality does not apply in the event that a justice testifies as a witness in a court of law, unless divulging the secret is detrimental to the good of the State or to some important private interest that does not conflict with the purposes of the administration of justice. In such cases the First Chairman may exempt the justice from the duty of maintaining confidentiality.

Article 41.1. Unless special provisions specify otherwise, a justice of the Supreme Court is not permitted to hold any other job, unless he is a professor at an institution of higher education or at a research center.

41.2. A justice may not either practice any occupation which would impede the exercise of his duties as a justice or be detrimental to his dignity or impair confidence in his impartiality.

41.3. To practice an additional occupation the justice must ask the consent of the First Chairman.

Article 42. A justice of the Supreme Court may not be delegated to perform judicial or administrative duties outside the Supreme Court, unless special provisions specify otherwise.

Article 43.1. A justice may submit only through official channels any claims, submissions, or complaints concerning matters relating to his position.

43.2. On such matters the justice may not turn to third-party institutions and persons, nor may he make these matters public.

Article 44. The justice should immediately notify the First Chairman about any court case to which he is a party or a participant in the proceedings.

Article 45.1. The basic salary of the justices is the same and, depending on his rank, amounts to a multiple of the average wage in manufacturing; the aggregate emoluments of justices vary depending on their seniority and functions.

45.2. The emoluments of justices of the Supreme Court and the staff of the Rulings Office are specified in an executive order by the President upon consulting the National Judiciary Council.

Article 46.1. A justice is entitled to annual leave equal to six work days after 10 years of service or 12 work days after 15 years of service. Credited to the period of work on which the duration of additional leave depends are all periods of previous employment in courts and prosecutor's offices in the capacity of trainees, assistant judges, judges, and prosecutors, as well as periods of work in the capacity of an attorney, legal adviser, or an executive in

the government handling legal practice, as well as other periods of work that can be credited for a longer furlough.

46.2. A justice may request, and be granted, a paid leave in order to salvage his health or attend to important personal and family affairs.

46.3. A health leave may not exceed six months, and a leave granted for other reasons may not exceed one month, during any calendar year.

46.4. A health leave may not be granted if the justice had previously not served for one year owing to illness. The yearly period of absence from service owing to illness is reckoned in accordance with Article 33, Paragraph 2.

46.5. During his illness-caused absence from work a justice continues to receive his salary, but for not longer than one year.

Article 47. A justice who is granted a retirement pension may continue to use his title on prefacing it with "Emeritus."

Article 48. In the event of service-connected claims, a justice has the right to resort to courts.

## Chapter 6. Disciplinary Responsibility

Article 49.1. A justice who misconducts himself while on duty or acts in a manner detrimental to the dignity of his position bears disciplinary responsibility.

49.2. The justice also bears disciplinary responsibility for his conduct prior to his appointment to the post of justice of the Supreme Court if he has infringed the duties of his then held governmental post or proved to be unworthy of the position of a judge.

Article 50.1. Following the elapse of one year from the perpetration of misconduct in question, disciplinary proceedings can no longer be instituted, or, once they have been instituted, they are subject to quashing.

50.2. If, however, the misconduct in question bears the earmarks of a crime, the period of limitation of disciplinary proceedings cannot be any shorter than the period specified in the provisions of the Criminal Code.

Article 51.1. The disciplinary penalties are as follows:

- 1) Admonition.
- 2) Reprimand.
- 3) Removal from post held.
- 4) Expulsion from the judiciary.

50.2. The disciplinary penalty of reprimand or removal from post held entails the deprivation of the possibility of advancement for three years and the impossibility of regaining the forfeited post during that period.



Article 52. Rulings on disciplinary matters involving justices of the Supreme Court are pronounced by the Disciplinary Court in the first instance and by the Higher Disciplinary Court in the second.

Article 53. The recommendation for initiating disciplinary proceedings may be made by the First Chairman of the Supreme Court or by the Collegium of the Supreme Court.

Article 54. An extraordinary appeal against any valid final ruling in disciplinary proceedings may be submitted to the Higher Disciplinary Court by the National Disciplinary Council or by the First Chairman of the Supreme Court; in addition, such an appeal may be submitted by the Minister of National Defense when the disciplinary proceedings concern a justice of the Military Chamber of the Supreme Court.

#### Chapter 7. Collegial Bodies of the Supreme Court

Article 55. The following collegial bodies operate within the Supreme Court: the General Assembly of Justices of the Supreme Court; assemblies of justices of the chambers of the Supreme Court, and the Collegium of the Supreme Court.

Article 56. Meetings of the General Assembly and of the chamber assemblies cannot be attended by judges delegated to perform the duties of justices of the Supreme Court.

Article 57.1. The scope of activities of the General Assembly includes:

- 1) Discussion of the annual report of the First Chairman on the whole of the activities of the Supreme Court as well as on major problems ensuing from current rulings; in such cases the First Chairman may invite the heads of central agencies of state administration and other supreme and central state bodies to attend the General Assembly.

- 2) Listening to the annual report on the activities of the Collegium of the Supreme Court.

- 3) Presenting to the National Judiciary Council candidates for the posts of justices of the Supreme Court.

- 4) Consideration of other matters of a general nature on the recommendation of the First Chairman or on the initiative of the Collegium of the Supreme Court.

57.2. The General Assembly is chaired by the First Chairman.

57.3. For the General Assembly to take a position or adopt a resolution on any issue, a quorum of at least two-thirds of the justices from each chamber is required. The results of the balloting are decided by a majority of votes. In the event of a tie the chairman casts the deciding vote. The balloting is secret if so demanded by at least one of the members of the Assembly present.

Article 58.1. The scope of activities of assemblies of justices of the chambers of the Supreme Court includes:

- 1) Discussion of the annual report of the chamber's chairman on the activities of the concerned chamber as well as on major problem ensuing from the chamber's rulings; in such cases the chamber's chairman may invite representatives of the agencies and bodies referred to in Article 57, Paragraph 1, Point 1), to attend the chamber assembly.

- 2) Election, for a yearly period, of two members and one deputy member to the Collegium of the Supreme Court.

58.2. The chamber assembly is chaired by the chairman of the chamber.

58.3. Article 57, Paragraph 3, applies correspondingly.

Article 59.1. The Collegium of the Supreme Court consists of: the First Chairman, chairmen of the Supreme Court, the director of the Rulings Office, and the Director of the Presidial Office, as well as justices of the Supreme Court elected for this purpose by the chamber assemblies.

59.2. Sessions of the Collegium are chaired by the First Chairman.

59.3. Resolutions of the Collegium are adopted by an ordinary majority of votes. In the event of a tie the chairman casts the deciding vote.

Article 60. The scope of activities of the Collegium of the Supreme Court includes:

- 1) Determination, for a yearly period, of the division of duties, consisting in particular in the assignment of justices to particular chambers and departments.

- 2) Evaluation of candidates for justices of the Supreme Court.

- 3) Evaluation of candidates for leadership positions in chambers and departments of the Supreme Court.

- 4) Assessment of the division of chambers into departments and of the Rulings Office into sections.

- 5) Assessment of the draft executive order of the President referred to in Article 7, and of the executive order of the First Chairman concerning the organization and scope of activities of Court secretariats and of other administrative units of the Supreme Court.

- 6) Discussion of draft reports to the Sejm, to the President, and to the National Judiciary Council.

- 7) Commenting on the recommendations of the First Chairman and chairmen of the Supreme Court as well as commenting on the Collegium's own initiative on other issues concerning the Supreme Court.

### Chapter 8. Special Provisions, Changes in Binding Provisions, and Interim and Final Regulations

Article 61. Matters not regulated by this Decree that concern the Supreme Court and its justices are correspondingly governed by the provisions of the Decree on the System of Common Courts, and matters not regulated by that decree, by the provisions of the Decree on Government Employees.

Article 62.1. The organizational structure and operating procedures of the Military Chamber of the Supreme Court and the justices of that chamber are governed by the pertinent regulations governing the system of military courts, unless they conflict with the provisions of this Decree.

62.2. In cases defined in Article 33, Paragraph 1, Point 3), Article 39, Article 43, Article 45, Article 46, Paragraphs 2-5, and Articles 47 and 48, regulations governing service by professional soldiers as well as other military regulations apply to justices of the Military Chamber of the Supreme Court.

Article 63.1. The Decree of 15 February 1962 on the Supreme Court (Dz.U., No. 11, Item 54, 1962; No. 23, Item 166, 1972; No. 39, Item 231, 1974; No. 4, Item 8, 1980; and No. 35, Item 187, 1984) is hereby voided.

63.2. Until the implementing regulations envisaged in this Decree are issued, the previous implementing regulations, issued on the basis of the decree mentioned in Paragraph 1, remain in force, unless they conflict with this Decree.

### Ministry of Internal Affairs Law Delimits Ministerial Powers

90EP0678A Warsaw *DZIENNIK USTAW* in Polish No 30, Item 181, 10 May 90 pp 414-416

[Law No. 181 dated 6 April 1990 governing the office of the Minister of Internal Affairs]

[Text]

Article 1.1. The [office of the] Minister of Internal Affairs is a central office of state administration that implements the state's policy on the protection of national security and public safety and order as well as on protection against lawless assaults on human life and health, and also as regards protecting the cultural and material accomplishments of the society and individual citizens and the state frontier, controlling frontier traffic, assuring fire safety, and administering internal affairs.

1.2. The Minister of Internal Affairs cooperates, within the limits of his powers, with other state and self-government agencies as regards safeguarding civil rights and liberties.

1.3. The Minister of Internal Affairs exercises his powers as [the head of a] central office of state administration

with respect to the proper local offices of state administration as regards social and administrative matters defined in separate decrees.

Article 2.1. The scope of activities of Minister of Internal Affairs includes:

1) Supervision of the activities of the Police, the Office of State Protection, the Fire Brigades, and the Frontier Guards, to the extent specified by separate regulations.

2) Social and administrative affairs defined by separate regulations.

3) Organizational-mobilizational and defense activities of the Ministry of Internal Affairs and other defense-related duties ensuing from the regulations governing the national defense duty.

4) Coordination of order-keeping, protective, and rescue actions in the event of natural disasters and other similar events imperiling public safety.

5) Sponsorship of research and civic projects intended to counteract crime and crime-breeding phenomena.

6) Determination and development of prevention and detection methods with the object of combatting crimes and transgressions, within the limits outlined by legal regulations.

7) Overall coordination of measures to protect state and official secrets.

2.2. The Council of Ministers determines in an ordinance the specific scope of activities of the Minister of Internal Affairs.

2.3. The Council of Ministers bestows in an ordinance an organizational statute on the Ministry of Internal Affairs and determines a list of organizational units subordinated to the Minister of Internal Affairs as well as a list of enterprises for which the office of the Minister of Internal Affairs is the parent agency.

2.4. The purposes and organizational structure of the Police, the Office of State Protection, the Fire Brigades, and the Frontier Guard are regulated by separate laws.

Article 3.1. The Minister of Internal Affairs performs his duties with the aid of the office subordinate to him, hereinafter called the ministry.

3.2. The Ministry of Internal Affairs employs personnel in accordance with the provisions of the laws governing the employees of state offices.

3.3. The Council of Ministers may also specify the positions at the Ministry of Internal Affairs that may be held by delegated functionaries of the Police, the Office of State Protection, the Fire Brigades, or the Frontier Guard.

Article 4. The Minister of Internal Affairs exercises supervision over the ministry's system of schools and

research and development centers, cooperating in this respect with the Minister of National Education, on principles defined in a separate decree.

Article 5.1. Military units may be subordinated to the Minister of Internal Affairs; their size will be specified in the decision to subordinate them.

5.2. The purposes of the military units referred to in Paragraph 1 may include protection of persons holding executive posts in the government as well as persons who for the good of the state have to be protected, and also the protection of delegations from foreign countries sojourning on Polish territory and the safeguarding and assurance of proper operation of objects and facilities serving the supreme organs of state power and administration.

5.3. The Council of Ministers may grant to the personnel of the military units subordinated to the Minister of Internal Affairs the powers of Police personnel defined in Articles 15, 16, and 17 of the decree of 6 April 1990 on the Police (Dz.U., No. 30, Item 179), to the extent necessary for the performance of their duties.

Article 6. The Chairman of the Council of Ministers determines, on the recommendation of the Minister of Internal Affairs and the Minister of National Defense, the specific division of powers among the Police, the Office of State Protection, the Fire Brigades, and the Frontier Guard, as well as among the military order units, and intelligence and counterintelligence services under the jurisdiction of the Minister of National Defense, and the rules for their cooperation.

Article 7.1. The Minister of Internal Affairs specifies the circulation of classified and confidential information within the organizational units under his jurisdiction.

7.2. The Minister of Internal Affairs may permit the employees, functionaries, and military personnel of the Ministry of Internal Affairs to provide information constituting a state or official secret to a specified person or institution. Such permission may not, however, apply to the situation referred to in Article 21 of the Decree of 6 April 1990 on the Police and in Article 12 of the decree of 6 April 1990 on the Office of State Protection (Dz.U., No. 30, Item 180).

7.3. If the information obtained by the organizational units under the jurisdiction of the Minister of Internal Affairs is essential to national security, the Minister of Internal Affairs is dutybound to immediately transmit it to the notice of the President of the Polish Republic and the Chairman of the Council of Ministers.

Article 8.1. The Minister of Internal Affairs specifies which organizational units of the ministry may operate as budget plants, subsidiary farms, or budget units whose operations are financed with special funds, on adhering to rules defined in separate regulations.

8.2. The Minister of Internal Affairs performs, in accordance with the provisions of separate decrees, the duties and obligations of a parent agency of state enterprises.

8.3. The organizational units of the Ministry of Internal Affairs, the Police, the Office of State Protection, the Fire Brigades, and the Frontier Guard, as well as trade unions and the personnel of these units may not take part in any activities, including economic activities, if these might result in utilizing official authority, official information, or public funds, for unofficial aims or in a manner conflicting with their purpose.

8.4. On the recommendation of the Minister of Internal Affairs, as coordinated with the proper minister, state organizational units are dutybound to take into consideration the needs of the agencies under the jurisdiction of the Minister of Internal Affairs with regard to products, services, and the provision of equipment needed to accomplish their purposes.

Article 9.1. The Council of Ministers appoints the Political Advisory Committee under the Minister of Internal Affairs, and bestows on it a statute in an ordinance.

9.2. The ordinances and other legal acts of the Council of Ministers, the Chairman of the Council of Ministers, and the Minister of Internal Affairs concerning the organizational structure and operation of the Ministry of Internal Affairs are issued after consulting the Political Advisory Committee.

Article 10. The supervisory powers of the Minister of Internal Affairs over the collegiums for transgressions [community courts] are transferred to the Minister of Justice.

Article 11. Until the rules for the organization and operation of the health service are revised, the Minister of Health and Social Welfare and the Minister of Internal Affairs shall define in their executive orders the procedure and rules for the provision to all citizens of health care by all the health service outlets under the jurisdiction of the Minister of Internal Affairs.

Article 12.1. The labor relationship of the employees of the organizational units under the jurisdiction of the Minister of Internal Affairs does not cease once these units are disbanded or transformed, if their disbanding or transformation is due to the promulgation of the Decree on the Office of the Minister of Internal Affairs, the Decree on the Police, or the Decree on the Office of State Protection.

12.2. The termination of labor relationship with the employees referred to in Paragraph 1 is also governed by the provisions of the Decree of 28 December 1989 on Special Principles for the Termination of Labor Relationship with Employees for Reasons Concerning the Workplace and on Revisions of Certain Laws (Dz.U., No. 4, Item 19, and No. 10, Item 59, 1990).

Article 13. Within 3 months from the effective date of this Decree the Council of Ministers shall issue the

ordinance referred to in Article 2, Point 1), of the Decree of 16 September 1982 on Employees of State Offices (Dz.U., No. 31, Item 214, 1982; No. 35, Item 187, 1984; No. 19, Item 132, 1988; No. 4, Item 24, and No. 34, Items 178 and 182, 1989; and No. 20, Item 121, 1990) with respect to the organizational units subordinated to the Minister of Internal Affairs.

Article 14. The Council of Ministers shall issue the ordinances referred to in Article 2, Paragraphs 2 and 3 within three months from the effective date of this Decree.

Article 15. The Decree of 14 July 1983 on the Office of the Minister of Internal Affairs and the Scope of Activities of the Agencies Under Its Jurisdiction (Dz.U., No. 38, Item 172, 1983; and No. 34, Item 180, 1989) is hereby voided.

Article 16. This Decree takes effect on the day of its publication, with the exception of the provision of Article 3, Paragraph 2, which takes effect three months after that day.

President of the Polish Republic: W. Jaruzelski

#### **Law Establishes Police Force; Organization, Service Delimited**

90EP0676A Warsaw *DZIENNIK USTAW* in Polish  
No 30, Item 179, 10 May 90 pp 385-400

[Law No. 179 dated 6 April 1990 on Police]

[Text]

#### **Chapter 1. General Provisions**

Article 1.1. The Police are hereby established as a uniformed and armed formation, intended to safeguard the security of citizens and maintain public order and safety.

1.2. The principal duties of the Police are:

- 1) The protection of the life and health of citizens, and of property, against lawless attempts against these goods.
- 2) Protection of public order and safety, including the maintenance of peace in public places as well as in means of public transit and road traffic.
- 3) Initiation and organization of actions intended to prevent the perpetration and rise of crimes and transgressions and to cooperate in this respect with concerned agencies of the state and of local self-governments as well as with social organizations.
- 4) The detection of crimes and transgressions and the pursuit of their perpetrators.
- 5) Supervision of the municipal guards established by local self-government bodies, as well as supervision of other specialized defense units to the extent defined in separate regulations.

6) Supervision of adherence to public-order and administrative regulations relating to public activities or mandatory in public places.

7) Cooperation with the police of other countries and their international organizations on the basis of international treaties and agreements and separate regulations.

Article 2. The duties of the Police are correspondingly duplicated within the Armed Forces of the Polish Republic, and with respect to military personnel, by military security personnel, by the procedure and on the principles defined in separate regulations.

Article 3. Offices of local state administration and local self-governments participate in the maintenance of public order and security to the extent and on the principles defined in this Decree and in other regulations.

#### **Chapter 2. Organizational Structure of the Police**

Article 4.1. The Police consists of:

- 1) Criminal police, comprising the following services: investigation and identification, operational research, criminological techniques, and operational techniques.
- 2) Traffic and crime-prevention police.
- 3) Crime-prevention units and antiterrorist squads.
- 4) Local police.

4.2. In justified cases the Minister of Internal Affairs may, with the consent of the Council of Ministers, appoint kinds of police other than those mentioned in Paragraph 1.

Article 5.1. The central office of state administration proper in matters concerning the protection of the security of citizens and the maintenance of public order and safety is the [Office of the] National Police Commander, subordinated to the Minister of Internal Affairs.

5.2. The National Police Commander is appointed and recalled by the Chairman of the Council of Ministers on the recommendation of the Minister of Internal Affairs, after consulting the Political Advisory Committee under the Minister of Internal Affairs.

5.3. The National Police Commander is the official superior of all Police personnel, who are hereinafter referred to as "policemen."

Article 6.1. [The heads of] local Police bodies are:

- 1) Voivodship Police commanders.
- 2) District Police commanders.
- 3) Commanders of Police precincts.



6.2. Voivodship Police commanders are appointed and recalled by the Minister of Internal Affairs on the recommendation of the National Police Commander and upon consulting the voivode.

6.3. District Police commanders are appointed and recalled by the National Police Commander upon consulting the voivode.

6.4. Commanders of Police precincts are appointed and recalled by the voivodship Police commander on the recommendation of the district Police commander and upon consulting the appropriate local self-government body.

6.5. Voivodship and district Police commanders are the official superiors of all police personnel within their administrative boundaries.

6.6. The National Police Commander and the voivodship and district Police commanders perform their duties with the aid of their subordinate offices, hereinafter referred to as headquarters offices, while precinct commanders perform their duties with the aid of their precinct offices.

Article 7.1. The National Police Commander defines the organizational structure of Police headquarters offices and precincts and, with respect to district headquarters offices, also the territorial scope of their activities.

7.2. The voivodship Police commander defines the territorial scope of activities of the precincts within the voivodship.

7.3. Administrative and technical service personnel are employed in Police headquarters offices and precincts on the same principles as those governing employment in offices of state administration, with the exception of the positions by the National Police Commander.

Article 8.1. The National Police Commander establishes as needed specialized local railroad, water, and air Police services subordinated to the appropriate voivodship or district Police headquarters offices.

8.2. The commanders of specialized local Police services are appointed and recalled by the National Police Commander.

8.3. The commander of local air police service is appointed and recalled by the voivodship Police commander upon consulting the concerned airport administration.

Article 9.1. Organizational units of local Police are the local Police stations operating within the gminas [rural townships].

9.2. The district Police commander is the official superior of all local Police personnel on his administrative territory.

9.3. The district Police commander, on the recommendation of the concerned local self-government body,

establishes or shuts down local Police stations and appoints or recalls the chiefs of these stations.

Article 10. Police commanders submit periodic reports on their activities, as well as reports on the status of public order and security, to the appropriate offices of general state administration and local self-government.

Article 11. 1. On matters relating to the organizational structure and exercise of duties of the Police, the offices of general state administration and local self-government may demand of the Police explanations and the restoration of a situation consonant with public order.

11.2. As regards crime detection and the pursuit of criminals the powers referred to in Paragraph 1 are used exclusively in the service of courts of law and public prosecutors.

Article 12. The Minister of Internal Affairs defines, by issuing executive orders:

- 1) Police weaponry.
- 2) Police salary basis.
- 3) Uniforms, insignia, and identifying marks of police personnel.
- 4) Rules for and manner of the wearing of uniforms and orders, decorations, medals, and badges.
- 5) Uniforming norms.

Article 13.1. The operating costs of the Police are defrayed from the State Budget. Local self-government bodies may participate in defraying part of the operating costs of local Police.

13.2. The Police rank and salary scale, with breakdown into discrete corps, is defined in the Budget Decree.

### Chapter 3. Scope of Police Powers

Article 14.1. Within the confines of its duties the Police, with the object of identifying, preventing, and detecting crimes and transgressions, performs the following activities: operational research, investigation, detection, and identification, and administration and order keeping. Local police perform only administrative and order-keeping duties as well as other activities that brook no delay and concern crime notification and the securing of accident sites.

14.2. Police also perform activities recommended by courts of law, public prosecutors, and offices of state administration and local self-government, insofar as said activities are defined in separate decrees.

14.3. While performing their service duties, police personnel are dutybound to respect the dignity of citizens and to adhere to and protect the rights of man.



Article 15.1. In performing the duties and activities referred to in Article 14, police personnel have the right to:

- 1) Verify the personal identity of individuals.
- 2) Detain persons by the procedure and in the cases defined in the Code of Criminal Proceedings and other laws.
- 3) Detain persons who in an evident manner create direct peril to life and health of others as well as to property.
- 4) Frisk persons and search premises by the procedure and in the cases defined in the Code of Criminal Proceedings and other laws.
- 5) Conduct personal searches and inspect the contents of luggage and freight at seaports, at terminals, and inside means of land, air, and water transportation, in the event that justified suspicion of the perpetration of a deed forbidden on pain of punishment exists.
- 6) Demand needed assistance from state institutions, turn for such assistance to economic entities and social organizations, and in urgent cases ask any citizen to provide emergency assistance.

15.2. Persons detained pursuant to Paragraph 1, Point 3) are entitled to the rights of persons detained under the provisions of the Code of Criminal Proceedings.

15.3. The detention of a person may be resorted to only whenever other means prove to be useless or ineffective.

15.4. The detainee referred to in Paragraph 1, Point 3) may be presented for identification, photographed, or fingerprinted only if his identity cannot be otherwise established.

15.5. The detainee should be, if the need is justified and arises, immediately subjected to a medical examination or provided with first aid.

15.6. The activities referred to in Paragraph 1 should be performed in a manner reducing to a minimum, insofar as possible, damage to the personal property of the individual concerned.

15.7. The manner in which the activities referred to in Paragraph 1 are performed may be appealed against to the local public prosecutor.

15.8. The detailed procedure to be followed in the case of Paragraph 1, Points 1, 3), 5), and 6) is specified in an ordinance of the Council of Ministers.

Article 16.1. In the event that the lawful recommendations of the Police or its personnel are not obeyed, police personnel may employ the following means of direct duress:

- 1) Physical, technical, and chemical means serving to neutralize or escort individuals and to stop vehicles.
- 2) Nightsticks.

3) Water equipment [hose, water cannon].

4) Police dogs.

5) Projectiles.

16.2. Police personnel may employ only those means of direct duress that correspond to the needs of the existing situation and are necessary to attain adherence to the instructions issued.

16.3. Local police may not employ means of direct duress other than those specified in Paragraph 1, Points 1), 2), and 4).

16.4. The Council of Ministers defines, by issuing an ordinance, the specific cases and conditions and modes of use of the means of direct duress referred to in Paragraph 1.

Article 17.1. If the means of direct duress referred to in Article 16, Paragraph 1 prove insufficient, police personnel have the right to use firearms:

1) With the object of repelling a direct and unlawful attempt to deprive the policeman or another person of life.

2) With the object of repelling a dangerous assault against the offices of the supreme bodies of state power and administration, as well as against facilities that are of major importance to national security, national defense, national economy, or national culture, and against the diplomatic missions and consular offices of foreign countries.

3) Against persons who, when summoned to drop a weapon or a dangerous instrument, disregard the summons and behave in a manner indicating an intent to employ directly against another person the weapon or other dangerous instrument.

4) Against a person who resorts to physical violence in order to seize the weapon of a person authorized to carry it.

5) With the object of repelling a direct assault against a convoy protecting individuals, money, secret documents, or valuables.

6) While pursuing a person with respect to whom resorting to arms is permissible in the situations referred to in Points 1) to 5).

7) While pursuing a person suspected of committing a particularly dangerous crime.

8) With the object of foiling the escape or the accused, temporarily arrested, or detained particularly dangerous criminal.

17.2. As regards the activities of close-order detachments and squads of the Police, resorting to firearms is permitted only on command of their leaders.

17.3. Firearms should be employed in a manner reducing to a minimum the injury to the person against whom a

firearm is employed, and they should not be intended to deprive that person of life or to expose other persons to the risk of loss of life or health.

17.4. The Council of Ministers shall, by way of an ordinance, define in detail the conditions and procedures to be followed when using firearms, as well as the principles for the use of firearms by the detachments and squads referred to in Paragraph 2.

Article 18.1. In the event of a peril to public security or a dangerous disturbance of public order, especially such as:

- 1) Danger to the life, health, or freedom of all citizens.
- 2) Direct and substantial peril to property.

3) Direct peril to the facilities referred to in Article 17, Paragraph 1, Point 2) the Chairman of the Council of Ministers may, on the recommendation of the Minister of Internal Affairs, with the object of safeguarding public security or restoring public order, order the employment of armed detachments or squads of the Police.

18.2. In cases brooking no delay the decision referred to in Paragraph 1 is taken by the Minister of Internal Affairs, on immediately notifying thereof the Chairman of the Council of Ministers.

18.3. In the cases referred to in Paragraph 1, if the employment of armed detachments and squads of the Police proves insufficient, units and squads of the Armed Forces of the Polish Republic may be used for assistance on the basis of a decision of the President of the Polish Republic, taken on the recommendation of the Chairman of the Council of Ministers.

18.4. The Council of Ministers defines, by means of an ordinance, the detailed rules and procedure for the use of the armed units and squads referred to in Paragraphs 1 and 3.

Article 19.1. When the Police conducts operations and investigations not covered by the provisions of the Code of Criminal Proceedings, with the object of preventing or detecting crimes against human life, or with the object of adhering to international treaties or agreements, the Minister of Internal Affairs may, upon obtaining the consent of the Prosecutor General, order for a fixed period of time the scrutiny of postal correspondence and the employment of equipment serving for clandestine surveillance and clandestine gathering of information and evidence.

19.2. The Council of Ministers specifies the procedure for performing the activities and employing the equipment referred to in Paragraph 1.

Article 20. The Police may, on adhering to the limitations ensuing from Article 19, Paragraph 1, obtain information clandestinely and confidentially and accumulate, verify, and process it.

Article 21.1. It is prohibited to provide persons or institutions other than a court of law and a public prosecutor with information on citizens that was obtained in the course of police investigations, or to utilize that information against citizens for purposes other than criminal prosecution.

21.2. The prohibition referred to in Paragraph 1 does not apply if a law imposes the duty of providing such information on a specified agency, or in cases in which keeping said information secret may result in imperiling the life or health of other persons.

Article 22.1. In performing its duties the Police may avail itself of the assistance of citizens who are not policemen.

22.2. For providing the assistance referred to in Paragraph 1 citizens may be granted remuneration from a contingency fund.

22.3. The Minister of Foreign Affairs defines the rules for forming and managing the contingency fund.

22.4. If during and in connection with the provision of assistance to the Police by the persons referred to in Paragraph 1, these persons forfeit their lives or impair their health or lose their property, compensation is due them on the principles and by the procedure specified in an executive order of the Minister of Internal Affairs.

#### Chapter 4. Municipal Guards

Article 23.1. Burgomasters and mayors may, in consultation with the Minister of Internal Affairs, establish uniformed municipal guard formations.

23.2. The Council of Ministers defines in an ordinance the rules for the cooperation between the Police and the municipal guards and the scope of the professional supervision of and assistance to these guards by the National Police Commander.

23.3. With the proviso of Article 24, Paragraphs 1-4, the provisions of Chapters 1-3 of this Decree concerning the Police apply correspondingly to the municipal guards.

Article 24.1. The specific scope of the duties, obligations, and powers of the municipal guards, as well as their organizational structure, uniforms, ranks, and weaponry, are defined in the statute of the municipal guards conferred by a burgomaster or mayor in consultation with the Minister of Internal Affairs.

24.2. Municipal guard personnel perform exclusively administrative and order-keeping activities.

24.3. Municipal guard personnel may not use firearms or resort to means of direct duress other than those specified in Article 16, Paragraph 1, Points 1) and 2).

24.4. The operating costs of the municipal guards are defrayed from the funds of local self-governments.

**Chapter 5. Service in the Police**

Article 25. Service in the Police is open to any Polish citizen who demonstrates an impeccable moral and patriotic attitude and has full civil rights, an at least secondary educational background, specified occupational or professional qualifications, and the physical and mental fitness for service in armed detachments subject to the particular service discipline to which he is ready to subordinate himself.

Article 26.1. Physical and mental fitness for service is determined by medical commissions subordinated to the Minister of Internal Affairs.

26.2. The Minister of Internal Affairs defines, by means of an executive order, the rules and procedure for evaluating physical and mental fitness for service and the competences and operating procedure of the medical commissions.

Article 27.1. Before starting service, the policeman swears the following oath:

"I, a citizen of the Polish Republic, being aware of the policeman's duties, do solemnly swear to serve faithfully the Nation, protect the legal order of the Polish Republic as established by the Constitution, and guard the security of the State and its citizens, even at the risk of my life. In executing the duties entrusted to me I swear to observe the law meticulously, preserve my loyalty to the constitutional bodies of the Polish Republic, adhere to Service discipline, and execute the orders and recommendations of my superiors. I swear to guard state and service secrets as well as the honor, dignity, and good name of the Service, and I also pledge myself to adhere to the rules of professional ethics."

27.2. The ceremonial procedure for swearing the oath of service is defined by the Minister of Internal Affairs.

Article 28.1. The employment relationship of a policeman is based on appointment following voluntary application for service.

28.2. The starting date of service is reckoned from the date specified in the official appointment or acceptance of the applicant for service in the Police.

28.3. The appointment may be made after the applicant completes basic military service or is transferred to the reserves.

28.4. The condition referred to in Paragraph 3 does not apply to women, police trainees, or persons commencing studies or professional retraining at schools of the Ministry of Internal Affairs.

28.5. The Minister of Internal Affairs defines by means of an executive order the kinds and forms of the service I.D.'s and other identity documents carried by police personnel, the agencies authorized to issue them, and the rules for making entries in these documents.

Article 29.1. An applicant for service in the Police is appointed a novice policeman for a period of three years.

29.2. After the three-year preparatory period is over, the policeman receives a permanent appointment.

29.3. In particularly justified cases the National Police Commander may, upon the recommendation of the concerned voivodship Police commander, shorten the duration of the policeman's preparatory service or exempt him from the preparatory-service requirement.

29.4. In the event that a policeman interrupts the exercise of his or her duties for a period of more than three months, his superior may correspondingly prolong the duration of the preparatory period.

Article 30.1. Conscripts assigned for service in the crime-prevention units of the Police are appointed novice policemen for a period equal to the period of basic military service.

30.2. Novice policemen perform service under the barracks system.

30.3. Novice policemen perform only administrative and order-keeping activities.

30.4. The period of service of a novice policeman is credited to the period of preparatory service if the interval of time between service as a novice policeman and preparatory service does not exceed three months.

Article 31.1. Persons who, pursuant to the laws governing the national defense duty, take part in exercises of the organizational units under the jurisdiction of the Minister of Internal Affairs under the rules of mobilization and assignment, are eligible, in accordance with the duties assigned to them, for the rights of police personnel defined in Articles 15, 16, and 17.

31.2. The scope of the service-connected rights and duties of the persons referred to in Paragraph 1 will be defined by separate regulations.

Article 32.1. The following official superiors are competent to appoint and transfer police personnel to Service positions as well as to relieve them from these positions: the National Police Commander and the voivodship and district Police commanders.

32.2. Police personnel may appeal the decisions referred to in Paragraph 1 to a higher official superior, with the exception of claim-related judicial proceedings.

32.3. If a decision referred to in Paragraph 1 is reserved by this decree to the National Police Commander, said decision may be appealed to the Minister of Internal Affairs.

Article 33.1. The duration of the performance of service as a policeman is determined by the scope of his duties with allowance for the right to leisure time.

33.2. The service schedule is determined by the National Police Commander.

Article 34. The National Police Commander determines the educational and professional requirements which must be met by a policeman holding a particular Service position.

Article 35.1. The policeman is subject to periodic performance evaluations.

35.2. The policeman is notified about his performance evaluation within 14 days from the day it is drawn up; within 14 days from the day of said notice, the performance evaluation may be appealed to a higher superior.

35.3. The rules for the periodic performance evaluation of police personnel and the procedure for the submission and consideration of appeals against performance evaluations are determined by the National Police Commander.

Article 36.1. A policeman may be transferred to another duty or reassigned for temporary service in another locality ex officio or on his own request.

36.2. The transfer or temporary reassignment is handled by the National Police Commander for the country as a whole, by the voivodship Police commander within the concerned voivodship, or by the district Police commander within the concerned district.

36.3. The duration of a temporary reassignment may not exceed six months. The National Police Commander may in exceptional cases extend that period to 12 months.

Article 37. A policeman may be assigned to another position in the same locality for a period of not more than 12 months; in such cases, the policeman's salary may not be reduced.

Article 38.1. A policeman is transferred to a lower ranking position in the event that the disciplinary penalty of demotion is imposed.

38.2. A policeman may be transferred to a lower ranking position in the event of:

- 1) Conclusion by a medical commission that there is permanent inability to serve in the currently held position, if there is no possibility of appointing the policeman to another, equivalent position.

- 2) Unsuitability for the currently held position as stated in performance evaluation during the period of preparatory service.

- 3) Failure to perform the duties associated with the position held, as stated in two successive performance evaluations, one succeeding the other after at least six months, made during regular service.

- 4) Abolition of the position currently held, if it is not possible to appoint the policeman to an equivalent post.

38.3. A policeman may also be transferred to a lower ranking position on his own request.

38.4. A policeman who withholds consent to transfer to a lower ranking position for any of the reasons specified in Paragraph 2 may be discharged from service.

Article 39.1. A policeman is suspended from duty for a period of not more than three months in the event that criminal proceedings concerning indictment for a premeditated crime are initiated against him.

39.2. A policeman may be officially suspended from duty for a period of not more than three months in the event that criminal proceedings concerning indictment for an unpremeditated crime or disciplinary proceedings are initiated against him, if this is deemed expedient for the good of the proceedings or for the good of the Service.

39.3. In particularly justified cases the period of suspension from duty may be extended to 12 months.

39.4. The Minister of Internal Affairs determines the procedure for the suspension of police personnel from duty by official superiors.

Article 40. A policeman may be directed ex officio or upon personal request to appear before a medical commission subordinated to the Minister of Internal Affairs in order to determine his state of health and physical and mental fitness for service, as well as to identify any occupational disease.

Article 41.1. A policeman is discharged from service in the event of:

- 1) Finding of permanent service disability, made by a medical commission.

- 2) Unfitness for service, stated in a performance evaluation prepared during the period of preparatory service.

- 3) Administration of the disciplinary punishment of expulsion from the Service.

- 4) Indictment and sentencing by a court of law for a deliberate crime.

41.2. A policeman may be discharged from service in the event of:

- 1) Failure to perform job duties during regular service, as established in two successive performance evaluations separated by a period of at least six months.

- 2) Sentencing by a court of law for a crime other than that referred to in Paragraph 1, Point 4).

- 3) Appointment to another State service or holding an elective office in a local self-government body or in an association.

- 4) Acquisition of the right to a retirement pension after 30 years of service.



5) When so required by the interests of the Service.

41.3. A policeman is discharged from service within a period of up to three months after he submits his resignation in writing.

Article 42. In the event that sentencing by a court of law is waived, criminal proceedings are conditionally quashed, a verdict of acquittal is pronounced, or the disciplinary punishment of transfer to a lower ranking post is waived, the consequences associated with the transfer to a lower ranking post or a demotion in rank also are waived. As for other consequences the Minister of Internal Affairs decides on waiving them.

Article 43.1. The discharge of a policeman from the Service on the basis of Article 38, Paragraph 4, and Article 41, Paragraph 1, Points 1) and 2), and Paragraph 2, Points 1) and 4) may not take place prior to the elapse of 12 months from the day of cessation of service owing to an illness, unless the policeman himself requests an earlier discharge.

43.2. The discharge of a policeman from the Service on the basis of Article 41, Paragraph 1, Points 3) and 4), and Paragraph 2, Point 2) may not occur prior to the elapse of three months from the day of cessation of service owing to an illness, unless the policeman himself requests an earlier discharge.

43.3. The discharge of a policeman from the Service on the basis of Article 41, Paragraph 2, Point 5) may be ordered after consulting the trade union of the Police.

Article 44.1. Policewomen may not be discharged from the Service during their pregnancy and during their maternity leaves, with the exception of cases referred to in Article 41, Paragraph 1, Points 3) and 4) and Paragraph 2, Points 2), 3), and 5).

44.2. In the event that a policewoman is discharged from the Service under Article 41, Paragraph 2, Point 5), she is entitled to continue to receive her salary until the end of her maternity leave.

Article 45.1. Personnel of officer rank are discharged from the Service by the National Police Commander; this also applies to other police personnel discharged for the reasons referred to in Article 41, Paragraph 2, Point 5).

45.2. In all other cases the personnel decisions referred to in Articles 37-41 are taken by the appropriate voivodship Police commander.

45.3. The retention in service of police personnel affected by Article 41, Paragraph 2, Point 2) requires the approval of the National Police Commander.

Article 46.1. A discharged policeman receives immediately a discharge certificate and, on his request, a written evaluation of his performance.

46.2. The discharged policeman may request rectification of his discharge certificate and appeal to a higher superior against the written evaluation of his performance, within seven days from receiving that evaluation.

46.3. The details to be specified in the certificate or discharge and in the written evaluation of performance, as well as the procedure for issuing and rectifying such certificates and for appealing against written evaluations of performance are defined by the Minister of Internal Affairs in the regulations issued pursuant to Article 81.

#### Chapter 6. Police Corps and Ranks

Article 47.1. Police corps and ranks are established in the following order:

1) In the corps of Police officers:

- a) General Police inspector.
- b) Senior Police inspector.
- c) Police inspector.
- d) Assistant Police inspector.
- e) Senior Police commissioner.
- f) Police commissioner.
- g) Assistant Police commissioner.

2) In the corps of Police warrant officers:

- a) Police warrant officer.

3) In the corps of noncommissioned Police officers:

- a) Senior Police sergeant.
- b) Police sergeant.

4) In the corps of Police privates:

- a) Corporal.
- b) Private.

47.2. In crime-prevention units and antiterrorist squads the corps and ranks are the same as the military corps and ranks.

47.3. The Minister of Internal Affairs defines in detail by means of an executive order, in consultation with the Minister of National Defense, which military ranks correspond to discrete police ranks.

Article 48.1. Appointments to the ranks of private, corporal, and noncommissioned officers are made by the voivodship Police commander. Appointments to the rank of private are made on the same day as the date of acceptance into the Service.

48.2. Appointments to the rank of sergeant are made by the National Police Commander.



48.3. In crime-prevention units and antiterrorist squads of the Police appointments to ranks equivalent to those mentioned in Paragraphs 1 and 2 are made by the National Police Commander.

48.4. Appointments to the junior officer rank, with the proviso of Article 56, Paragraph 3, and to the rank of general Police inspector and senior Police inspector are made by the President of the Polish Republic upon the recommendation of the Minister of Internal Affairs. Appointments to the other officer ranks are made by the Minister of Internal Affairs.

Article 49.1. A noncommissioned Police officer or Police warrant officer may be a person who meets the requirements of Article 25 and who has moreover completed a school for noncommissioned officers or a school for Police warrant officers, or who has passed examinations for noncommissioned Police officers or warrant officers.

49.2. The provisions of Paragraph 1 also apply to appointments to ranks equivalent to those of the police personnel serving in crime-prevention units and antiterrorist squads of the Police.

Article 50.1. A person who meets the requirements of Article 25 and who moreover has a higher educational background and has completed professional retraining may be appointed to the junior officer rank.

50.2. In particularly justified cases, a policeman who lacks a higher educational background but has a seniority of at least five years and has passed examinations for an officer may be appointed to the junior officer rank.

Article 51. The Minister of Internal Affairs shall define by means of an executive order the specific rules for the professional retraining referred to in Article 50, Paragraph 1, as well as the rules and procedure for taking the examinations for officers, noncommissioned officers, and warrant officers.

Article 52.1. Promotion to the next higher rank takes place depending on the Service post held and the performance evaluation. The promotion may not, however, occur earlier than after the following periods of service in currently held posts:

- Private, one year.
- Sergeant, four years.
- Assistant commissioner, three years.
- Commissioner, four years.
- Senior commissioner, five years.
- Assistant inspector, four years.

52.2. As regards the police personnel serving in crime-prevention units and antiterrorist squads of the Police, promotions take place in accordance with the regulations binding on the armed forces.

52.3. In particularly justified cases the Minister of Internal Affairs may, upon the recommendation of the National Police Commander promote any policeman to a higher rank, with allowance for the restrictions ensuing from the provisions of Article 48, Paragraph 4, and Article 49, Paragraph 1, and Article 50, Paragraph 1.

Article 53.1. The ranks referred to in Article 47 are for life.

53.2. Discharged police personnel may continue to use the ranks referred to in Article 47, on qualifying them with the adjective "Retired."

53.3. Forfeiture of a rank referred to in Article 47 occurs in the event of:

- 1) Forfeiture of Polish citizenship, or
- 2) Sentencing by a court to the additional punishment of deprivation of public rights, or
- 3) Sentencing by a court of law to the punishment of deprivation of freedom for a crime committed out of base motives.

Article 54.1. Demotion is decided upon by the official superior proper for the original appointment to the rank.

54.2. Demotion from the officer rank is decided upon by the Minister of Internal Affairs.

54.3. Demotion from the rank of general Police inspector and senior Police inspector is decided upon by the President of the Polish Republic on the recommendation of the Minister of Internal Affairs.

Article 55.1. A policeman's rank is restored in the event of rescindment of the:

- 1) Sentencing by a court of law to the additional punishment of deprivation of public rights, or
- 2) Sentencing by a court of law to the punishment of deprivation of freedom for a crime committed out of base motives, or
- 3) Decision on the basis of which the demotion was made, or
- 4) The disciplinary punishment of demotion.

55.2. The decision to restore to a policeman the rank of an officer is taken by the Minister of Internal Affairs. In all other cases the decision to restore rank is made by the superior proper for appointments to that rank.

Article 56.1. A person of military rank who is accepted into the Service is appointed to a corresponding Police rank.

56.2. The appointment referred to in Paragraph 1 may be made contingent on the obligation of undergoing professional retraining.

56.3. When a person having the military rank of a lieutenant junior grade is admitted to the Service, his appointment to a corresponding rank in the Police is made by the Minister of Internal Affairs.

Article 57. The Minister of Internal Affairs defines the specific rules and procedure for the appointment of police personnel to police ranks.

#### Chapter 7. Rights and Duties of Police Personnel

Article 58.1. A policeman is dutybound to adhere to the obligations ensuing from his oath of service.

58.2. A policeman is dutybound to refuse executing the order or recommendation of his superior, or the instruction of the public prosecutor or of the office of state administration or local self-government, if the execution of the said order or recommendation or instruction involves committing a crime.

58.3. The refusal to execute the order or recommendation or instruction referred to in Paragraph 1 must be reported by the policeman to the National Police Commander outside the regular channels.

Article 59.1. The official superior of the policeman who is unable to execute the recommendation, referred to in Article 14, Paragraph 2, of a court or a public prosecutor within the designated period of time or scope, is dutybound to present a request for extending the deadline or altering or withdrawing the recommendation.

59.2. In the event of an unjustified failure to execute the instruction within the designated period of time or scope, upon the demand of the court or the prosecutor, the official superior of the policeman initiates disciplinary proceedings against him. The court or the prosecutor is notified about the outcome of these proceedings.

Article 60.1. While on duty the policeman is dutybound to wear the prescribed uniform and gear.

60.2. The National Police Commander defines the cases in which a policeman on duty is not obligated to wear a uniform.

Article 61.1. In the cases referred to in Article 60, Paragraph 2, while performing the duties associated with a police investigation as well as the duties referred to in Article 14, Paragraph 2, and Article 15, Paragraph 1, Points 2) to 4), the policeman is obligated to show his official identification in a manner enabling the concerned person or persons to read and note the number and name of the policeman and the name of the office issuing the card.

61.2. When performing other administrative and order-keeping duties, the nonuniformed policeman is obligated to show, when so demanded by a citizen, his official identification and service badge in the manner described in Paragraph 1.

Article 62. A policeman may not accept employment outside the Service without permission by the proper voivodship Police commander.

Article 63.1. Police personnel may not belong to any political parties.

63.2. Once a person is accepted for service in the Police, his membership in a political party ceases.

63.3. A policeman is obligated to report to his superior membership in any domestic association active outside the Service.

63.4. Membership in a foreign or international organization or association requires permission from the Minister of Internal Affairs or an authorized superior.

Article 64. A policeman is obligated to notify his immediate superior about his intention to travel abroad.

Article 65.1. A policeman who is discharged from the Service on the basis of Article 41, Paragraph 1, Points 3) or 4), and Paragraph 2, Point 2), and Paragraph 3) before the expiration of 10 years from the date of completion of studies at a higher school under the jurisdiction of the Minister of Internal Affairs or at a higher school where his tuition was paid by the Ministry of Internal Affairs, is obligated to reimburse the Ministry for an amount equivalent to the cost of his meals and uniforms received while at the school.

65.2. The Minister of Internal Affairs determines the cost referred to in Paragraph 1, the rules for its reimbursement, and the cases in which exemption from the duty of reimbursement may be granted.

Article 66. In connection with the exercise of his official duties a policeman is entitled to the protection provided in the Criminal Code for public servants.

Article 67.1. Police personnel may associate themselves in the trade union of the Police.

67.2. The provisions of the Trade Unions Decree apply correspondingly, with the proviso that only one trade union may operate within the Police and that that union has no right to strike.

67.3. Specific rules for cooperation between the trade union of the Police and the Minister of Internal Affairs and the National Police Commander will be contained in the statute of that trade union, registered in a court of law.

Article 68. A policeman who while on duty has had his health impaired or has sustained a property loss is entitled to compensation by the procedure and on the principles defined in separate regulations. In the event of the service-connected death of a policeman, the compensation is paid to surviving family members.

Article 69.1. After 15 years of service a policeman is entitled to retirement.

69.2. Policyperson who become disabled while on duty are entitled to a police disability pension.

69.3. Family members surviving a policeman are entitled to a police family pension.

69.4. The rules for granting the benefits referred to in Paragraphs 1-3 are contained in the provisions governing the pension benefits of Police personnel and their families.

Article 70.1. Police personnel receive uniforms without charge.

70.2. The amount of and requirements for granting a monetary equivalent of a uniform are defined by the Minister of Internal Affairs in consultation with the Minister of Finance.

Article 71. Police personnel belonging to particular organizational units under the jurisdiction of the Minister of Internal Affairs are provided with special equipment. The rules for the allocation of special equipment and the modes of wearing it are defined by the Minister of Internal Affairs.

Article 72. The Minister of Internal Affairs defines the cases in which police personnel receive meals and the related standards. Cases in which the monetary equivalent of the meals can be received and the amount of that equivalent are determined by the Minister of Internal Affairs in consultation with the Minister of Finance.

Article 73.1. Police personnel and members of their families are entitled to use at the expense of the Ministry of Internal Affairs state-owned means of transportation once a year for a round-trip to any selected locality in this country, on terms defined by the Minister of Internal Affairs.

73.2. In the event that the right to the free annual round-trip is not utilized, the authorized person receives a lump-sum financial equivalent on terms defined by the Minister of Internal Affairs.

73.3. Persons referred to in Paragraph 1 may also be granted other benefits and allowances, whose nature and scope are defined by the Minister of Internal Affairs in consultation with the Minister of Labor and Social Policy.

Article 74. A policeman and his spouse are entitled to a discount when using state-owned means of transportation to the extent and on the terms defined in an ordinance of the Minister of Transportation and Navigation in cooperation with the Minister of Internal Affairs.

Article 75.1. A policeman and the members of his family are entitled to free medical care from the health service of the Ministry of Internal Affairs on terms defined by the Minister of Internal Affairs.

75.2. A policeman and the members of his family may also avail themselves gratis of the services of the institutions of the public health service, to the extent and on the terms defined in an executive order of the Ministers of Health and Social Policy and of Internal Affairs, or of the services of other health-service institutions on terms defined by the Minister of Internal Affairs in consultation with the concerned ministers.

75.3. The benefits referred to in Paragraphs 1 and 2 are also available to persons eligible for retirement pensions under the rules contained in the provisions governing the retirement pensions of Police personnel and their families.

Article 76.1. A policeman entitled to receive a pension linked to a non-service-connected disability, or authorized members of his family, and also family members receiving death benefits after the non-service-connected demise of a policeman, are entitled to free treatment at institutions of the public health service.

76.2. A discharged policeman who is not entitled to the retirement pension granted by law to police personnel and their families, as well as the members of his family, are entitled to the services of the institutions of the public health service to the extent and on the terms envisaged for employees whose employment relationship is terminated. Article 77. Family members of the policeman, authorized to the benefits referred to in Articles 73, 75, and 76, are considered to be the spouse and children for whom a family allowance is granted.

Article 78. The period of service of a policeman is treated as work of a special nature as construed by the regulations governing the retirement pensions of employees and their families.

Article 79. Policewomen are entitled to the special rights provided for female employees by the Labor Law Code, unless the provisions of this decree specify otherwise.

Article 80.1. A policeman who has found a new job within a year from the day of his discharge from the Service, or, if he had been in the preparatory service, within three months from that day, has the work seniority gained while in the Police credited to his subsequent work record so far as all rights ensuing from the right to work are concerned.

80.2. The provisions of Paragraph 1 do not apply if the Labor Law Code provides that the expiration of the periods of time referred to in Paragraph 1 is no obstacle to an employee's right to particular benefits.

80.3. If a policeman cannot find a new job within the period of time specified in Paragraph 1 owing to an illness resulting in work disability or a handicap, he retains the rights referred to in Paragraph 1 in the event of starting a new job within three months from the date of the cessation of the work disability or handicap.

80.4. The provisions of Paragraphs 1 and 2 do not apply to police personnel discharged from the Service as a

consequence of sentencing by a court of law or receiving the disciplinary punishment of expulsion from the Service.

Article 81. The Minister of Internal Affairs defines, within the limits specified in this Decree, the procedure for the performance of official duties, the course of these duties, and the specific rights and obligations of police personnel.

Article 82.1. Police personnel are entitled to an annual paid vacation of 30 calendar days.

82.2. Police personnel are entitled to their first vacation after a year of service.

Article 83.1. A policeman may be recalled from his vacation owing to important Service considerations, or his vacation may be partially or entirely withheld. The timing of the vacation also may be shifted upon the policeman's request, as motivated by important considerations.

83.2. A policeman who is recalled from a vacation is entitled to reimbursement for the traveling expenses connected with the recall, in accordance with the norms specified in the regulations governing official compensation for relocation or temporary reassignment, as well as to the reimbursement of other expenses as defined by the Minister of Internal Affairs.

83.3. The recall of a policeman from his vacation owing to Service considerations requires the consent of his superior.

83.4. A policeman who has not availed himself of the right to a vacation in a given calendar year should be granted that vacation within the first three months of the following year.

Article 84. The Minister of Internal Affairs may introduce paid additional furloughs for up to 15 calendar days annually for police personnel who serve in particularly arduous and noxious conditions or who have reached a particular age or seniority record, or when so warranted by particular service considerations.

Article 85. A policeman may be granted a paid health leave or circumstantial leave, as well as an unpaid furlough, for important reasons.

Article 86. The Minister of Internal Affairs defines the rules for granting leaves to police personnel, the attendant procedure, and the time limits of the leaves referred to in Articles 84 and 85.

Article 87. A policeman who performs his duties in a model manner, displays initiative on duty, and advances his professional qualifications, may be granted the following forms of distinction:

- 1) A commendation.
- 2) A commendation contained in a written order.

3) A financial or material award.

4) A brief furlough.

5) A decoration from the Ministry of Internal Affairs.

6) Presentation for a State decoration.

7) Promotion to a higher rank ahead of schedule.

8) Promotion to a higher rank in the Service.

#### Chapter 8. Housing for Police Personnel

Article 88.1. Regular police personnel are entitled to housing in the locality in which they serve, or in a nearby locality, with allowance for the number of family members and their rights ensuing from separate regulations.

88.2. Police personnel in the preparatory service may be granted temporary housing.

Article 89. The family members of a policeman who are considered when allocating housing, are the following members of a common household:

- 1) The spouse.
- 2) Children (blood children, foster children) supported by the policeman, if they are less than 25 years of age.
- 3) Parents of the policeman and his spouse, whose sole support is the policeman or if, owing to age, disability, or other circumstances, they are not able-bodied; a stepfather or a stepmother as well as adoptive parents also are considered parents.

Article 90. Housing for police personnel is provided from the housing stock at the disposal of the Minister of Internal Affairs or of the agencies under his jurisdiction, obtained through investments or from local offices of State administration or workplaces, or vacated by persons billeted there by agencies under the jurisdiction of the Minister of Internal Affairs.

Article 91.1. A policeman is entitled to a financial equivalent for the renovation of the housing occupied, with allowance for the number of family members and for their rights ensuing from separate regulations.

91.2. The specific rules for disbursing the equivalent referred to in Paragraph 1, and the amount of that equivalent, are defined by the Minister of Internal Affairs in consultation with the Minister of Finance.

Article 92.1. A policeman is entitled to a financial equivalent if he or the members of his family lack housing in the locality where the policeman serves, or in a nearby locality.

92.2. The amount of the financial equivalent referred to in Paragraph 1 and the specific rules for granting and disbursing it are determined by the Minister of Internal Affairs in cooperation with the Minister of Finance.



Article 93. A policeman occupying a dwelling in a locality near the locality in which he serves is entitled to reimbursement of the cost of commuting to place of work in the amount of the price of the train or bus tickets.

Article 94.1. A policeman who has not received housing on the basis of an administrative allocation decision is entitled to financial assistance from the housing fund for obtaining a dwelling from a housing cooperative or a one-family house or a dwelling constituting an autonomous real estate unit.

94.2. The Minister of Internal Affairs defines the rules for granting the financial assistance referred to in Paragraph 1 and the amount of that assistance.

Article 95. Housing is not granted to police personnel on the basis of an administrative decision if:

1) The policeman receives financial assistance from the housing fund.

2) In the locality in which he serves, or in a nearby locality, the policeman owns a dwelling with a surface area corresponding in size to at least the dwelling area the policeman is entitled to, or a one-family house or a house-boarding home.

3) The spouse of the policeman owns a dwelling or a house referred to in Point 2).

4) The policeman or his spouse sells his right to ownership of a cooperative dwelling constituting an autonomous real estate unit or a house as referred to in Point 2), with the exception of the cases referred to in Article 96, Paragraph 3.

Article 96.1. A policeman who is transferred for service in another locality, and who owns housing, whether an apartment, a one-family house, or a house-boarding home, in the locality in which he had previously served, may be allocated housing in the new locality on the basis of an administrative decision, if he:

1) Vacates the dwelling or house occupied in the old locality.

2) Refunds the financial assistance received for the purpose of:

a) Making advance payments for housing or for the construction of housing in the amount specified by the housing cooperative.

b) Paying other encumbrances, in the amounts granted.

96.2. A policeman who avails himself of financial assistance from the Housing Fund may be allocated housing on the basis of an administrative decision if he vacates the dwelling or house referred to in Paragraph 1 and refunds the financial assistance as prescribed in this Article.

96.3. The procedure for allocating housing in the cases referred to in Paragraphs 1 and 2, the specific rules for refunding the received financial assistance, and the rules for vacating currently held housing referred to in Paragraph 1 are defined by the Minister of Internal Affairs.

96.4. A policeman transferred for service in another locality who has failed to vacate the housing he had occupied in the previous locality as referred to in Paragraph 1, may be granted temporary housing in consonance with the binding norms but without allowance for the remaining members of his family household.

96.5. A policeman assigned for temporary service in another locality is granted temporary billeting. The cost of the billeting is defrayed from the funds of the Ministry of Internal Affairs.

Article 97.1. The Minister of Internal Affairs in cooperation with the Minister of Land Use Management and Construction defines the specific rules for the allocation and vacating of the housing referred to in Article 90 and the dwelling-area norm per person, as well as the specific rules for the allocation and vacating of temporary billets.

97.2. The Minister of Internal Affairs in cooperation with the Minister Land Use Management and Construction and the Minister of Finance determines the size of the rents for the housing administered by agencies under the jurisdiction of the Minister of Internal Affairs and the rules for refunding the differences in the rent that a policeman is obligated to pay for other housing.

97.3. The additional per person dwelling-area norms defined on the basis of Paragraph 1 and relating to the service post or rank held, also apply when allotting to police personnel housing other than that referred to in Article 90.

Article 98. A discharged policeman who lacks the right to housing on the terms defined in the provisions governing retirement pensions for Police personnel and their families retains the right to the housing allocated to him according to the commonly binding norms, or may be relocated to equivalent housing.

#### **Chapter 9. Salaries and Other Financial Benefits of Police Personnel**

Article 99.1. The right to receive a salary is acquired on the day of appointment of the policeman to his position.

99.2. The salary linked to the policeman's position consists of one basic salary plus other financial benefits defined by law and exempt from the wage tax.

99.3. The salaries of police personnel are increased to at least the same extent as the average wage of employees in the manufacturing sector.

99.4. The Council of Ministers annually determines the size of the funds earmarked for increasing the salaries of police personnel.

Article 100. The overall pay of a policeman consists of the basic salary plus allowances.

Article 101.1. The Minister of Internal Affairs in cooperation with the Minister of Labor and Social Policy determines the basic salary scale for police personnel and the salary increases due in proportion to work seniority.

101.2. The Minister of Internal Affairs indirectly determines the salary scale for nontypical positions within the limits of the salary scale for typical positions.

Article 102. The Minister of Internal Affairs defines the rules and procedure for crediting periods of service and work to the seniority record considered when determining the increase in basic salary.

Article 103.1. A policeman who is transferred to a position in a lower basic salary group retains the right to receive the same salary as received in the previously held position, and the same rank.

103.2. The Minister of Internal Affairs may, in particularly justified cases, permit a policeman transferred to a position in a lower basic salary group to retain the right to be rated in the previously held position as well as the rank connected to that position.

103.3. The provisions of Paragraph 1 do not apply to policemen transferred to lower ranking positions on the basis of Article 38, Paragraph 1, or Paragraph 2, Points 2) and 3), and to policemen transferred at their own request.

Article 104.1. Police personnel receive the following salary allowances:

- 1) Rank allowance.
- 2) Service allowance.
- 3) Allowances warranted by particular qualifications, conditions, or site of performance of service.
- 4) Family allowance.

104.2. Regular allowances are allowances included in the monthly salary rates.

104.3. The specific rules for receiving the salary allowances referred to in Paragraph 1 and the scale of these allowances are determined by the Minister of Internal Affairs in cooperation with the Minister of Labor and Social Policy.

Article 105. The basic salary and the regular allowances are payable in advance once a month. The Minister of Internal Affairs may specify which regular allowances are payable as of the next month.

Article 106.1. A change in salary takes place on the day the circumstances warranting this change arise.

106.2. If the right to receive a salary is acquired, or if the change in salary occurs, after the first day of the month, the salary paid for the interval of time remaining until

the month's end is reckoned in terms of one-thirtieth of the monthly salary for each day, unless special regulations specify otherwise.

106.3. The right to receive a salary expires with the last day of the month in which a policeman is discharged from the Service or other circumstances warranting the expiration of that right arise.

Article 107.1. Claims concerning the right to receive a salary and other allowances as well as arrears in payments are considered expired after three years from the day on which the claim became presentable.

107.2. The institution proper for considering claims may disregard their expiration if the delay in presenting a claim is warranted by exceptional circumstances.

107.3. The expiration date of a claim concerning salary and other allowances or monetary arrears is extended in proportion to the time spent on:

- 1) Applying to the head of a organizational unit of the Minister of Internal Affairs proper for considering claims with the direct object of having the claim investigated, determined, or satisfied.

- 2) Acknowledgment of the claim.

Article 108.1. Police personnel are eligible for the following financial allowances:

- 1) Household allowance.
- 2) Awards and assistance.
- 3) Anniversary awards.
- 4) Extra pay for performing entrusted tasks above and beyond one's duties.
- 5) Payment of traveling expenses and relocation expenses.
- 6) Benefits associated with discharge from service.

108.2. In the event of the death of a policeman or his family member, the following allowances apply:

- 1) Funeral allowance.
- 2) Posthumous pay.

Article 109. A policeman who is granted permanent appointment is eligible for a household allowance equal to one month's basic salary, plus a regular monthly allowance that is payable on the day of permanent appointment.

Article 110.1. Police personnel may be granted awards and financial assistance in the amount and on the terms determined by the Minister of Internal Affairs.

110.2. The size of the award and assistance fund for policemen is determined by the Council of Ministers.

Article 111. Police personnel are eligible for anniversary awards connected with a long service record, with the rules determined by the Council of Ministers.

Article 112.1. For accomplishing assignments that exceed the normal scope of duties a policeman may receive additional pay on terms determined by the Minister of Internal Affairs.

112.2. Remuneration for the inventions and technological refinements and improvements devised by police personnel is governed by separate regulations.

Article 113. In the event of transfer for service in another locality or temporary reassignment, a policeman is entitled to reimbursement for the traveling and relocation expenses in the amount and on the terms determined by the Minister of Internal Affairs in cooperation with the Minister of Labor and Social Policy.

Article 114.1. A policeman who is discharged from service on the basis of Article 38, Paragraph 4, and Article 41, Paragraph 1, Points 1) and 2), and Paragraph 2, Points 1) and 3) to 5), and Paragraph 3 receives:

- 1) Severance pay.
- 2) Financial equivalent of unused vacation in the year of discharge from service, and of unused vacations in the past.
- 3) Lump-sum financial equivalent of commuting expenses remaining for the year, from the funds of the Ministry of Internal Affairs.
- 4) Reimbursement of the expenses of traveling to a selected domicile for oneself, spouse, and children supported by the policeman, as well as reimbursement of the cost of transporting household belongings under rules applying to official transfers.

114.2. A policeman who is discharged on the basis of Article 41, Paragraph 1, Point 3), receives 50 percent of the normal severance pay as well as the monetary equivalent of unused vacations for the years preceding the year of discharge from service.

114.3. The Minister of Internal Affairs or an authorized official superior of the policeman may, in particularly warranted cases, in consideration of justified needs of the policeman's family, grant severance pay in an amount not exceeding 50 percent in cases in which the policeman is discharged from service on the basis of Article 41, Paragraph 1, Point 4), and Paragraph 2, Point 2).

Article 115.1. The amount of the severance pay disbursement to a policeman under regular appointment is equal to three months of his basic salary plus regular allowances, received in the last position held. Severance pay is increased by an additional 20 percent of basic salary plus regular allowances for every additional full year of service after five years of uninterrupted service, until the equivalent of six months of basic salary, along with

regular allowances, is reached as the limit. A period of service that exceeds six months is reckoned as a full year.

115.2. The amount of severance pay is also determined on crediting periods of uninterrupted professional military service if, immediately upon his discharge from the military, the soldier is hired to serve in the Police and has not received severance pay for previous service.

115.3. The provision of Paragraph 2 applies correspondingly in the event of starting work in the Police following discharge from service in other Services in which benefits of this kind apply.

115.4. The amount of severance pay for policemen in the preparatory service is equal to one-month's basic salary plus regular allowances received in the most recently held Service position.

Article 116.1. In the event of death of a policeman, the surviving family is entitled to a posthumous severance pay in the same amount as would have been paid to that policeman if he had been discharged from service, along with the benefits specified in Article 114, Paragraph 1, Points 2) to 4).

116.2. The benefits referred to in Paragraph 1 are payable to the spouse of a policeman living in a common matrimonial household and, in the next sequence, to children or parents if, on the day of death of the policeman, they met the requirements for receiving a family pension on the basis of the regulations governing the retirement pay of Police personnel and their families.

116.3. The provisions of Paragraphs 1 and 2 also apply to missing policemen. The fact that a policeman is missing and whether this is service-connected is determined by the Minister of Internal Affairs.

Article 117.1. A regular policeman who is discharged from service on the basis of Article 41, Paragraph 1, Point 1), and Paragraph 2, Point 4) is paid, for a year following his discharge from service, a monthly financial allowance in an amount equivalent to his basic salary along with the regular allowances received in the most recently held position, with the exception of the family allowance, which is payable in accordance with the rules applying to police personnel.

117.2. A policeman who is eligible for the benefit referred to in Paragraph 1 as well as for a retirement pension, has the right to choose between either benefit.

Article 118. The severance pay referred to in Article 114, and the benefits referred to in Article 117, do not apply to a policeman who has been, immediately following his discharge from service, accepted for professional military service or for another service within which the right to such benefits applies.

Article 119.1. In the event of death of a policeman, irrespective of the posthumous severance pay referred to in Article 116, a funeral allowance is payable. This allowance may amount to either:

1) The equivalent of three months of basic salary plus regular allowances received in the last Service position held, if the expenses of the funeral are borne by the spouse, children, siblings, or parents, or

2) The actual cost of the funeral, but not more than the amount specified in Point 1), if the expenses of the funeral are borne by another person.

119.2. If the death of a policeman occurs as a result of a service-connected incident, the cost of the funeral is defrayed from the funds of the Ministry of Internal Affairs. The Minister of Internal Affairs may also consent to defraying the cost of the funeral of a policeman whose death resulted from a service-connected ailment.

119.3. In the event that the cost of the funeral of a policeman is defrayed from the funds of the Ministry of Internal Affairs, the persons referred to in Paragraph 1, Point 1), are entitled to one-half of the funeral allowance.

Article 120.1. In the event of death of a family member, the policeman is entitled to a funeral allowance amounting to:

1) The equivalent of two months of basic salary plus regular allowances paid in the last Service position held, if the cost of the funeral is paid by the policeman.

2) The actual cost of the funeral, but at most not more than that specified in Point 1), if paid for by another person.

120.2. The Minister of Internal Affairs defines the conditions for defraying the cost of the funerals of police personnel from the funds of the Ministry of Internal Affairs and specifies which family members are eligible for the funeral allowance.

120.3. In the event of a convergence between the rights to the funeral allowance referred to in Paragraph 1 and the rights to a funeral allowance mentioned in separate regulations, the policeman is entitled to receive the higher allowance and, if he has already received the lower allowance, to a corresponding differential.

Article 121.1. In the event of illness, vacation, release from official duties, or during the period while he receives no service assignments, the policeman continues to receive his basic salary plus regular allowances and other financial benefits due in the Service position most recently held—with allowance for the intervening changes that affect the right to a salary and other benefits as well as their size.

121.2. The Minister of Internal Affairs may cancel entirely or partially the payment of certain salary allowances during a policeman's illness, circumstantial leave, or absence of assignments.

Article 122.1. A policeman who is assigned to a school or for retraining or for studies in this country receives a salary and other financial benefits in the amount and on the terms specified by the Minister of Internal Affairs.

122.2. The Minister of Internal Affairs determines, in cooperation with the Minister of Finance, the amount and terms of the payment of salaries and other financial benefits to police personnel assigned for study to foreign academies or other foreign schools (courses).

Article 123.1. In the event that a policeman receives the emoluments envisaged in the regulations governing the emoluments of persons holding executive positions in the government, the policeman and his family members are eligible for the service-connected benefits and payments referred to in this Decree, with the exception of the payments referred to in Article 72.

123.2. The financial benefits and payments referred to in Paragraph 1 are disbursed in specified amounts, with allowance for the remuneration paid to the policeman in the Service position held last or according to the salary scale binding on the day of discharge from service or of death.

Article 124.1. A policeman who is suspended from his duties has one-half of his most recently paid salary with allowances also suspended—with the exception of the family allowance.

124.2. In the event that suspension from service is waived, the policeman receives the suspended part of his salary along with the regular salary increases introduced during the period of the suspension, unless he has been discharged from service owing to sentencing by a court of law or subjected to the disciplinary punishment of expulsion from the Service.

Article 125.1. A temporarily arrested policeman has his next salary suspended 50 percent, with the exception of the family allowance.

125.2. In the event that criminal proceedings are quashed or acquittal is pronounced in a court of law, the policeman is paid the suspended part of his salary plus the scheduled salary increases introduced during the period of the suspension, unless the quashing or acquittal takes place after the policeman is discharged from service, with the proviso of Paragraph 3.

125.3. The provisions of Paragraph 2 do not apply in cases in which the criminal proceedings are quashed owing to the statute of limitation or an amnesty, or in which they are conditionally quashed.

Article 126.1. A policeman who has on his own abandoned his posting or remains outside that posting or fails to serve, has his salary suspended starting with the next payday. If the policeman has already received payment for the time of unjustified absence from duty, that payment is proportionately deducted on the next payday.

126.2. If the absence from duty is considered justified, the policeman is paid the suspended part of his salary; in the event of unjustified absenteeism, one-thirtieth of monthly pay is deducted for each day of absence.



126.3. The provisions of Paragraphs 1 and 2 apply correspondingly if a policeman is unable through his own fault to exercise his duties.

126.4. A policeman whose unpaid leave commences during a calendar month is entitled to receiving pay amounting to one-thirtieth of his monthly emoluments for each day preceding the day on which the unpaid leave commences. If the policeman has already been paid for the period of the unpaid leave, a corresponding part of his emoluments is deducted on the next payday.

Article 127.1. Emoluments of police personnel may be garnished on the basis of judicial and administrative writs of execution or special regulations in accordance with the provisions governing judicial execution or executory proceedings in the administration, or other special regulations, unless otherwise specified in the subsequent provisions of this Decree.

127.2. The emoluments referred to in Paragraph 1 are construed to comprise the basic salary, pay allowances, the severance pay mentioned in Article 114, and the benefits specified in Articles 112 and 117. No deductions may be made from the family allowance.

127.3. The family allowance due alimony-receiving persons is payable to these persons; this allowance is not part of the emoluments determined with the object of fixing the amount of the alimony.

127.4. The Minister of Internal Affairs specifies the organizational units proper for carrying out deductions from emoluments and the procedure to be followed in such cases.

Article 128. The provisions of Article 127, Paragraphs 1-3, do not apply to the advance payments received to defray, in particular, the expenses of traveling on duty, reassignment, or relocation. These payments are deducted in their entirety from the emoluments, irrespective of deductions for other reasons.

Article 129. The powers provided in Article 12; Article 101, Paragraph 2; Article 102; Article 104, Paragraph 3; Article 105; Article 110, Paragraph 1; Article 112, Paragraph 1; Article 113; and Article 120, Paragraph 2, are utilized by the Minister of Internal Affairs upon consulting the trade union of the Police.

Article 130. Whenever this Decree refers to the provisions governing the retirement pensions of Police personnel and their families, this should be construed as referring to the provisions of the Decree of 31 January 1959 on the Retirement Pensions of the Personnel of Citizens' Militia and Their Families (Dz.U., No. 46, Item 210, 1983; No. 20, Item 85, 1985; No. 38, Item 181, 1985; and No. 35, Items 190 and 192, 1989), and to the implementing regulations issued on the basis of this Decree.

Article 131. The provisions of Chapters 7-9 of this Decree concerning police personnel in preparatory service also apply to novice policemen, with the exception of the provisions of Article 88, Paragraph 2, and Article 115, Paragraph 4.

#### **Chapter 10. Disciplinary and Criminal Responsibility of Police Personnel**

Article 132. A policeman bears disciplinary responsibility for the crimes and transgressions he commits, irrespective of his criminal responsibility.

Article 133.1. A policeman is subject to disciplinary responsibility for violating Service discipline and in other cases specified in the Decree.

133.2. If disciplinary proceedings are initiated by a court of law or a public prosecutor, the official superior of the policeman should be notified about the outcome of these proceedings.

133.3. The provision of Paragraph 2 applies correspondingly when the court sentences a policeman to a disciplinary punishment without indicating the nature of that punishment.

Article 134.1. A policeman may be subjected to the following kinds of disciplinary punishment:

- 1) Admonition.
- 2) Reprimand.
- 3) Strict reprimand.
- 4) Reprimand with warning.
- 5) Warning of incomplete fitness for service in the post held.
- 6) Transfer to a lower service post.
- 7) Demotion in rank.
- 8) Deprivation of officer rank.
- 9) Warning of incomplete fitness for service.
- 10) Expulsion from the Service.

134.2. Irrespective of the penalties mentioned in Paragraph 1, the penalty of prohibition against driving motor vehicles and other vehicles for a period of from six months to three years also may be imposed. This penalty is imposed only for actions consisting in the violation of traffic laws, and it is subject to being imposed by a collegium for transgressions authorized by a separate decree.

134.3. As regards novice policemen, the following disciplinary penalties may be imposed in addition to the penalties mentioned in Paragraph 1:

- 1) House arrest.
- 2) Detention for 14 days.

134.4. In justified cases the penalty of demotion to a lower ranking position and the penalty of expulsion from the Service may be combined with the penalty of demotion in rank and, in cases involving violations of traffic law, with the penalty of prohibition against driving motor vehicles and other vehicles.

Article 135.1. Disciplinary proceedings may not be initiated after the elapse of 90 days from the day the policeman is notified by the superior referred to in Article 139 of having committed the transgression or violated service discipline.

135.2. No disciplinary penalty may be imposed on a policeman after the elapse of one year from the day the deed referred to in Paragraph 1 is committed.

Article 136.1. For transgressions subject to consideration from the standpoint of the Code of Proceedings in Transgressions, the policeman bears disciplinary responsibility unless further provisions specify otherwise.

136.2. The agencies handling the sentencing for transgressions as well as other interested organs and institutions address their recommendations for punishing a policeman to the concerned voivodship Police commander.

136.3. Police personnel are held accountable and fined in disciplinary proceedings in cases of transgressions for which, in consonance with the provisions of the Code of Proceedings in Transgressions, the agencies specified in these provisions may impose fines.

136.4. In the event of refusal to pay the fine or failure to pay it on schedule, the agency authorized to impose the fine addresses a recommendation for punishing the policeman to the concerned voivodship Police commander.

136.5. The recommendation referred to in Paragraphs 1 and 4, when concerning voivodship Police commanders and deputy commanders or policemen serving at the Headquarters of the National Police Commander, is addressed to the National Police Commander.

Article 137. In the cases referred to in Article 136 disciplinary punishment may not be imposed after the expiration of the statute of limitation as applied to a given transgression in the Code of Transgressions.

Article 138.1. Police personnel bear only disciplinary responsibility for deeds for which, under separate regulations, the proper agencies are authorized to impose fines for breaches of order.

138.2. Also subject to disciplinary responsibility are policemen in cases in which the proper agencies are authorized to impose fines in order to compel adherence to rules.

138.3. The agencies referred to in Paragraphs 1 and 2 request the voivodship Police commander to draw a

policeman to disciplinary responsibility. The provisions of Article 136, Paragraph 5 apply correspondingly.

Article 139.1. Granting distinctions and imposing disciplinary penalties is the prerogative of the proper official superiors, with the caveat of the cases specified in Article 54, Paragraphs 2 and 3.

139.2. The rules and procedure for granting distinctions, handling disciplinary proceedings, imposing and executing disciplinary penalties, and appealing against these penalties, as well as the competences of official superiors in these matters are defined by the Minister of Internal Affairs in an executive order.

Article 140.1. Courts of honor are the proper venue in cases of the failure of a policeman to adhere to principles of professional ethics, and especially to the honor, dignity, and good name of the Service.

140.2. Courts of honor are not the proper venue in the cases referred to in Paragraph 2 if the deed perpetrated by the policeman provides the grounds for initiating disciplinary proceedings and constitutes a transgression or a crime.

140.3. Courts of honor pronounce verdicts based on conviction supported by an unrestricted examination of evidence.

140.4. In pronouncing their verdicts the members of courts of honor are independent.

140.5. Courts of honor are elective bodies.

140.6. Courts of honor may pronounce verdicts prescribing educational measures for police personnel.

Article 141. The specific organizational structure of courts of honor, their competences, and the rules and procedure for their conduct, as well as the kinds of educational measures that can be applied by these courts, are determined by the National Police Commander in consultation with the trade union of Police personnel.

Article 142.1. A policeman who, while performing his duties, has exceeded his powers or failed to complete his duties, thereby infringing upon the personal rights of citizens, is subject to the penalty of imprisonment for five years.

142.2. If the perpetrator of the deeds referred to in Paragraph 1 violates the prohibition referred to in Article 21, Paragraph 1, he is subject to imprisonment for a period of one to five years.

Article 143. A policeman who, with the object of obtaining elucidation, confessions, or a declaration, resorts to physical duress or lawless threats or moral tortures is subject to the penalty of imprisonment for one to five years.

Article 144.1. A policeman committing a prohibited deed with the object of executing an order or a recommendation is not considered as having perpetrated a crime unless he was aware, or at least accepted the idea, that in executing the order he was committing a crime.

144.2. In the case referred to in Paragraph 1 the person who had issued the order or the recommendation is responsible for the crime.

Article 145. The official superior or an authorized higher ranking policeman who issues to the policeman an order or a recommendation to commit a deed constituting a crime is subject to imprisonment for one to five years.

#### Chapter 11. Provisional and Final Regulations

Article 146.1. Once the Police is established, the Citizens' Militia is disbanded.

146.2. The documents, property, and tables of organization heretofore at the disposal of the Citizens' Militia shall be transferred by the Minister of Internal Affairs to the newly established national agencies in accordance with their powers.

146.3. In the voivodships in which the division of the movable property and real estate referred to in Paragraph 1 between the Police and the Office for the Protection of the State would be particularly costly or technically difficult, that property and estate are transferred to units of the Police which at the same time will assure for a period of not more than one year the provision of services on behalf of the Office for the Protection of the State.

146.4. The Minister of Internal Affairs shall define in an executive order the rules for the gradual transfer of the powers and property referred to in Paragraph 2 to units of the Police and the Office for the Protection of the State.

Article 147.1. The Minister of Internal Affairs shall organize the Police within 3 months from the effective date of this Decree.

147.2. Once the Police is organized, the offices of internal affairs are subject to being shut down.

Article 148.1. Until passport matters are transferred for handling to the voivodes, the passport departments previously operating at internal affairs offices shall operate as part of voivodship Police headquarters under the direct supervision of the Minister of Internal Affairs.

148.2. The powers of issuing decisions on passport matters, reserved in the Passport Decree of 17 June 1959 (Dz.U., No. 17, Item 81, 1967; No. 28, Item 261, 1971); No. 66, Item 298, 1983; and No. 31, Item 172, 1984) for the agencies under the jurisdiction of the Minister of Internal Affairs shall belong to the directors of passport departments until their transfer to the purview of the voivodes.

148.3. Voivodship police commanders shall provide the financial, housing, and supply support for these units. The related expenditures are refunded from the funds of the Ministry of Internal Affairs.

Article 149.1. Once the Citizens' Militia is disbanded, its personnel become policemen.

149.2. The provision of Paragraph 1 does not apply to those members of the Citizens' Militia who had until 31 July 1989 been members of the Security Service.

149.3. The Minister of Internal Affairs shall, within three months from the effective date of this Decree, confer corresponding police ranks to policemen, who, until that time, retain their existing Citizens' Militia ranks.

Article 150.1. The existing personnel of the Citizens' Militia or the Security Service who start serving in the Police or become employed in organizational units under the jurisdiction of the Minister of Internal Affairs shall retain continuity of their service or employment records.

150.2. The Minister of Internal Affairs may, with respect to an employee with special qualifications who holds a position in the health service under the Minister's jurisdiction, prolong the period of applicability of the Police regulations governing the service relationship and the attendant rights and duties, as well as of the regulations governing the retirement pensions for Police personnel and their families, for a period of not longer than 31 December 1991.

Article 151.1. Personnel discharged from service in the Citizens' Militia who refrain from starting to serve or work for the organizational units under the jurisdiction of the Minister of Internal Affairs, retain the rights reserved for the personnel discharged from service on the basis of Article 41, Paragraph 2, Point 5), unless the rights they became entitled to upon their discharge are more favorable.

151.2. The personnel referred to in Paragraph 1 acquire the right to the equalization allowance referred to in the decree of 28 December 1989 or Special Rules for Terminating Labor Relationship with Employees Owing to Reasons Linked to the Workplace and on Revisions of Certain Decrees (Dz.U., No. 4, Item 19, and No. 10, Item 59, 1990).

151.3. The expenditures on payments of equalization allowances to discharged personnel are defrayed from the funds of the Ministry of Internal Affairs.

Article 152. On the effective date of this Decree those policemen who belong to political parties shall cease to be members of these parties.

Article 153. Whenever this Decree refers to "the Citizens' Militia" and "the personnel of the Citizens' Militia," this is to be construed as "the Police" and "police personnel."

Article 154. The following revisions are incorporated in the Decree of 8 October 1982 on Trade Unions (Dz.U., No. 54, Item 277, 1985); No. 11, Item 84, 1988 and No. 20, Item 105, 1989):

1) In Article 13 the expressions "and the personnel of the Citizens' Militia" are replaced each time with "and the personnel of the Office for the Protection of the State.

2) Article 14 is deleted.

3) Article 15 is reworded as follows:

"Article 15.1. Employees of the military units and other organizational units under the jurisdiction of the Minister of Internal Affairs have the right to establish and associate themselves in trade unions of employees of the Ministry of Internal Affairs.

"2. The right to establish and join the trade union of employees of the military belongs to, on adhering to the requirements of national defense, the employees of the military units and enterprises under the jurisdiction of the Minister of National Defense.

"3. The right to belong to trade unions does not apply to:

"1) Employees of the military units or other organizational units under the jurisdiction of the Minister of Internal Affairs to which apply the restrictions specified in the Decree on the Employees of State Offices.

"2) Employees of the military units under the jurisdiction of the Minister of National Defense to which apply the restrictions specified in the Decree on the Employees of State Offices.

"3) Employees of the military units named by the Minister of National Defense as units of a special nature."

Article 155. The following revisions are incorporated in the Decree of 21 November 1967 on the National Duty of Defending the Polish People's Republic (Dz.U., No. 30, Item 207, 1988; and No. 20, Item 104, as well as No. 29, Item 154, and No. 34, Item 178, 1989):

1) In Article 65 the following Paragraph 4 is added:

"4. Assignment to service in the armed formations which are not part of the Armed Forces of the Polish Republic may occur only with the conscript's consent."

2) In Article 182, Paragraph 2, the following second sentence is added:

"Persons who are not employed in the organizational units under the jurisdiction of the Minister of Internal Affairs may be assigned under the mobilization plan to these units only with their own consent."

Article 156. The Minister of Internal Affairs shall, in cooperation with the Minister of National Defense, verify by not later than 31 December 1990 the existing

mobilization plans for assignment to units under the jurisdiction of the Minister of Internal Affairs, on retaining the requirement referred to in Article 181, Paragraph 2 of the decree referred to in Article 155 of this Decree.

Article 157.1. The Decree of 31 July 1985 on the Service of the Personnel of the Security Service and the Citizens' Militia (Dz.U., No. 38, Item 181, 1985; No. 34, Item 180, and No. 35, Item 192, 1989) is hereby declared null and void in its part pertaining to the Citizens' Militia.

157.2. Until the implementing regulations envisaged in this Decree are issued, the existing regulations remain binding insofar as they do not conflict with this Decree, but for not longer than one year.

157.3. The provisions of Article 75 remain binding until the rules for the organizational structure, operating procedures, and financing of the health service are revised.

Article 158. This Decree becomes effective on the day of its publication.

President of the Polish Republic: W. Jaruzelski

#### **Law Establishes New Office of State Protection**

90EP0677A Warsaw *DZIENNIK USTAW* in Polish  
No 30, Item 180, 10 May 90 pp 401-413

[Law No. 180 dated 6 April 1990 governing the Office of State Protection]

[Text]

#### **Chapter 1. General Provisions**

Article 1.1. The Office of State Protection is established. Its purpose is to protect the security of the state and its constitutional order.

1.2. The duties of the Office of State Protection include:

1) Identifying and counteracting perils to the security, defense, sovereignty, and integrity of the state.

2) Preventing and detecting crimes of espionage and terrorism, as well as other major crimes against the State, and prosecuting their perpetrators.

3) Identifying and counteracting violations of state secrets.

4) Preparing reports and analyses vital to national security for the supreme bodies of state power and state administration.

Article 2.1. The duties envisaged for the Office of State Protection are also performed by the intelligence and counterintelligence services under the jurisdiction of the Minister of National Defense, in accordance with rules and procedures defined in separate regulations.



2.2. When preventing and combatting crimes of espionage and other crimes aimed against the defense potential of the state, the Office of State Protection cooperates with the services referred to in Paragraph 1.

Article 3. The Chairman of the Council of Ministers shall, on the recommendation of the Minister of Internal Affairs, define in detail the structure and tasks of the Office of State Protection.

## **Chapter 2. Organizational Structure of the Office of State Protection**

Article 4.1. The central agency of state administration proper in matters concerning the protection of state security is the [office of the] Chief of the Office of State Protection, which is under the jurisdiction of the Minister of Internal affairs.

4.2. The Chief of the Office of State Protection is appointed by the Chairman of the Council of Ministers on the recommendation of the Minister of Internal Affairs and upon consulting the Political Advisory Committee under the Minister of Internal Affairs.

Article 5. The Minister of Internal Affairs may, on the recommendation of the Chief of the Office of State Protection, and upon consulting the Political Advisory Committee, establish branch offices of the Office of State Protection and specify their scope of activities and territorial boundaries. By the same procedure, he may disband them.

## **Chapter 3. Scope of Powers of the Office of State Protection**

Article 6.1. Within the confines of its tasks the Office of State Protection engages in investigative activities with the object of identifying, preventing, and detecting crimes.

6.2. The Office of State Protection also engages in activities recommended by a court of law or a public prosecutor, to the extent specified in the Code of Criminal Proceedings.

6.3. The personnel of the Office of State Protection, hereinafter referred to as "OSP personnel" or "Employees" engage only in the activities remaining within the scope of the powers of this office and to this extent they have the procedural powers of police personnel ensuing from the provisions of the Code of Criminal Proceedings.

Article 7.1. Employees, in performing the activities referred to in Article 6, have the right to:

- 1) Verify the personal identity of individuals.
- 2) Detain persons by the procedure and in the cases specified in the provisions of the Code of Criminal Proceedings.

3) Frisk persons and search premises by the procedure and in the cases specified in the provisions of the Code of Criminal Proceedings and other laws.

4) Perform bodily inspections as well as inspections of the contents of passenger luggage and of freight and cargo containers in seaports, at terminals, and inside means of land, air, and water transportation in the event that justified suspicion of the perpetration of prohibited deeds under the threat of punishment exists.

5) Demand needed assistance from state institutions and turn for such assistance to economic entities and social organizations as well as, in urgent cases, to turn for emergency assistance to any citizen.

7.2. A person may be detained only if other measures prove useless or ineffective.

7.3. The detainee should be, if the need arises, immediately subjected to a medical examination or provided with first aid.

7.4. The activities referred to in Paragraph 1 should be performed in a manner reducing to a minimum the impairment of personal rights of the detainee.

7.5. The manner in which the activities referred to in Paragraph 1 are performed may be appealed to the locally proper public prosecutor.

7.6. The detailed procedure for performing the activities referred to in Paragraph 1, Points 1), 2), 4), and 5), is prescribed in an ordinance of the Council of Ministers.

Article 8.1. In the event that the lawful instructions given by OSP personnel are not followed, that personnel are authorized to employ physical, technical, and chemical means of direct coercion serving to neutralize or escort individuals or to stop moving vehicles.

8.2. In the cases referred to in Paragraph 1 only the means of direct coercion appropriate to the needs of the existing situation and indispensable to achieving obedience to the instructions issued may be employed.

8.3. The Council of Ministers defines in an ordinance the specific instances and conditions and modes of using the means of direct coercion referred to in Paragraph 1.

Article 9.1. If the means of direct coercion referred to in Article 8, Paragraph 1, prove insufficient, OSP personnel have the right to use firearms:

- 1) With the object of repelling a direct and lawless assault against their own lives or the lives of others.
- 2) With the object of repelling a dangerous assault against the offices of the supreme organs of state power and administration as well as against facilities of importance to national security or national defense or to the economy or national culture, and against the diplomatic missions and consular offices of foreign countries.

3) Against a person who, when summoned to immediately drop a weapon or a dangerous instrument, ignores the summons and behaves in a manner indicating a direct intent to use the weapon or other dangerous instrument against the life of another person.

4) Against a person who attempts to physically seize a weapon from a person authorized to wear it.

5) With the object of repelling a direct assault against a convoy protecting individuals, money, secret documents, or valuables.

6) When pursuing a person against whom using weapons is permissible in the situations referred to in Points 1) to 5).

7) When pursuing a person suspected of committing a particularly dangerous crime.

8) With the object of foiling the escape of a sentenced, temporarily arrested, or detained particularly dangerous criminal.

9.2. Firearms should be used in a manner reducing to a minimum injury against the person against whom the firearm is used, and they should not be intended to deprive that person of his or her life or to expose other persons to the danger of loss of life or health.

9.3. The Council of Ministers specifies in an ordinance the detailed conditions and procedures for using firearms.

Article 10.1. When the Office of State Protection engages in investigative activities to an extent not covered by the provisions of the Code of Criminal Proceedings with the object of preventing or detecting crimes aimed against the constitutional order, state security, or national defense, as well as crimes prosecuted on the basis of international treaties and agreements, the Minister of Internal Affairs may, upon obtaining the consent of the Prosecutor General, order for a specified period of time mail inspections and the use of technical equipment serving to clandestinely obtain information or evidence and engage in surveillance.

10.2. The Council of Ministers defines the specific rules for engaging in the activities and using the technical means referred to in Paragraph 1.

Article 11.1. Within the scope of its competences the Office of State Protection may, on adhering to the limitations ensuing from Article 10, Paragraph 1, obtain information, whether or not clandestinely and confidentially, and accumulate, verify, and process that information.

11.2. If the information obtained, including that referred to in Paragraph 1, may be of major importance to state security, the Chief of the Office of State Protection is dutybound to immediately transmit it to the Chairman of the Council of Ministers and the Minister of Internal Affairs.

Article 12.1. It is prohibited to provide persons and institutions other than courts of law and public prosecutors with information on citizens that was obtained while engaging in investigative activities, as well as to utilize that information against a citizen for purposes other than criminal prosecution.

12.2. The prohibition referred to in Paragraph 1 does not apply if the law imposes the duty of providing such information to a specified agency, as well as in cases in which keeping such information secret might result in imperiling the life or health of other people.

Article 13.1. The Office of State Protection may, when accomplishing its tasks, avail itself of the assistance of citizens who are not OSP personnel.

13.2. For the provision of the assistance referred to in Paragraph 1, citizens who are not OSP personnel may be granted a financial reward payable out of the operational fund.

13.3. The Minister of Internal Affairs specifies the rules for establishing and managing the operational fund.

13.4. If while the Office of State Protection avails itself, or in connection with its availing itself, of the assistance of the persons referred to in Paragraph 1 these persons forfeit their lives or suffer injury to their health or property, compensation is due them by the procedure and according to the rules established in the executive order of the Minister of Internal Affairs.

Article 14. On the demand of the voivode the concerned branch offices of the Office of State Protection submit reports and briefings on the status of state security insofar as this affects the voivodship.

#### **Chapter 4. Service of Office of State Protection Personnel**

Article 15. To serve in the Office of State Protection a person has to be a Polish citizen who displays an impeccable moral and patriotic attitude, has full civil rights, has an at least secondary educational background and specific professional or occupational qualifications and is physically and mentally fit for service in armed formations subject to a special service discipline to which he or she is ready to subordinate himself or herself.

Article 16.1. Physical and mental fitness for service is determined by the medical commissions under the jurisdiction of the Minister of Internal Affairs.

16.2. The Minister of Internal Affairs defines in an executive order the rules for evaluating physical and mental fitness for service as well as the procedure for determining that fitness and the powers and operating procedures of medical commissions concerning these matters.

Article 17.1. Before starting service, the Office of State Protection Employee swears the following oath:

"I, a citizen of the Polish Republic, aware of the duties of an Employee of the Office of State Protection, solemnly swear to: serve faithfully the Nation, protect the legal order established by the Constitution of the Polish Republic, and guard the security of the State and its citizens even at risk to my life. In executing the duties entrusted to me I solemnly swear to meticulously abide by the rule of law, maintain my fealty to the constitutional bodies of the Polish Republic, adhere to service discipline, and execute the orders and recommendations of my superiors. I pledge myself to guard state and service secrets, as well as the honor, dignity, and good name of the Service, and to adhere to the principles of professional ethics."

17.2. The oath ceremony is determined by the Minister of Internal Affairs.

Article 18.1. The service relationship of the Employee is based on appointment subsequent to voluntary application for service.

18.2. The commencement of service is reckoned from the day named in the order appointing the Employee.

18.3. The appointment may take place following completion of basic military service or transfer to the reserves.

18.4. The condition referred to in Paragraph 3 does not apply to women as well as to persons who commence studies or professional retraining at schools operated by the Ministry of Internal Affairs.

18.5. The Minister of Internal Affairs issues an executive order defining the kinds and models of Service I.D. cards and badges.

Article 19.1. An applicant for service in the Office of State Protection is appointed to preparatory service for a period of 3 years.

19.2. After the elapse of the period of preparatory service the Employee receives a permanent appointment.

19.3. In cases warranted by special qualifications of an Employee the Chief of the Office of State Protection may shorten the period of his or her preparatory service or exempt him or her from that service.

19.4. In the event of an interruption of more than 3 months in the performance of duties by an Employer, the Chief of the Office of State Protection may extend the period of the Employee's preparatory service.

Article 20. The Chief of the Office of State Protection has the power of appointing Employees to Service positions and transferring or discharging them from these positions.

Article 21.1. The daily duration of service for an Employee depends on the extent of his or her duties, with allowance for the right to leisure time.

21.2. The schedule of service activities is determined by the Chief of the Office of State Protection.

Article 22. The Chief of the Office of State Protection specifies the requirements for educational background and professional qualifications which must be met by an Employee holding a particular Service position.

Article 23.1. Employees are subject to periodic performance evaluations.

23.2. The evaluation is made known to the Employee within 14 days from the date it is prepared, and within 14 days afterward the Employee may appeal it to a higher superior.

23.3. The rules for the periodic performance evaluations of Employees and the procedure for the submission and consideration of appeals against these evaluations are determined by the Chief of the Office of State Protection.

Article 24.1. An Employee may be transferred or temporarily reassigned for service in another locality ex officio or on his or her own request.

24.2. The Chief of the Office of State Protection is proper for the transfer or temporary reassignment of Employees.

Article 25.1. An Employee may be entrusted with the duties of another position. In this event the Employee's salary may not be reduced.

25.2. An Employee may be temporarily assigned to perform duties outside the Ministry of Internal Affairs. The conditions and procedure for such assignments as well as for figuring salaries and other benefits due the Employee during the temporary assignment are determined by the Chief of the Office of State Protection.

Article 26.1. An Employee is transferred to a lower ranking Service position in the event a corresponding disciplinary punishment is imposed.

26.2. An Employee may be transferred to a lower ranking Service position in the event of:

1) Finding by a medical commission of permanent work disability so far as the position held is concerned, if there is no possibility of appointing the Employee to another, equivalent position.

2) Unsuitability for the position held, as stated in a performance evaluation prepared during the Employee's preparatory service.

3) Failure to perform the duties relating to the position held, as stated in two successive performance evaluations, separated by a period of at least six months, prepared during the Employee's regular service.

4) Abolition of the position held, if there is no possibility of appointing the Employee to another, equivalent position.

26.3. An Employee who does not consent to transfer to a lower ranking position for the reasons referred to in Paragraph 2 may be discharged from service.

Article 27.1. An Employee is suspended from his or her duties, for a period of not more than three months, in the event that criminal proceedings subsequent to indictment in a court for a premeditated crime are initiated against him or her.

27.2. An Employee may be suspended from his or her duties, for a period of not more than three months, if so deemed in the interest of the proceedings or in the interest of the Service, in the event that criminal proceedings subsequent to indictment in a court for an unpremeditated crime or disciplinary proceedings are initiated against him or her.

27.3. In particularly justified cases the period of suspension from duty may be extended to 12 months.

27.4. The Chief of the Office of State Protection determines the procedure for the suspension of Employees from duty by their superiors.

Article 28. An Employee may be directed ex officio or on his or her own request to a medical commission under the jurisdiction of the Minister of Internal Affairs with the object of determining the state of his or her health and his or her physical and mental fitness for service as well as the relationship of discrete ailments to the work performed.

Article 29.1. An Employee is discharged from service in the event of:

- 1) Finding of a permanent work disability by a medical commission.
- 2) Unsuitability for service, stated in a performance evaluation prepared during the Employee's preparatory service.
- 3) Imposition of the disciplinary punishment of expulsion from the Service.
- 4) Sentencing by a court of law for a premeditated crime, based on a bill of indictment.

29.2. An Employee may be discharged from service in the event of:

- 1) Failure to perform service duties while under permanent appointment, as stated in two successive performance evaluations that are separated by a period of at least six months.
- 2) Sentencing by a court of law for a crime other than that referred to in Paragraph 1, Point 4).
- 3) Appointment to another state service or election to an elective office in a local self-government body or in an association.

4) Acquisition of the right to a retirement pension upon attaining a service record of 30 years.

5) When so required by important interests of the Service.

29.3. An Employee is discharged from service within six months from the date he or she submits a written request for such discharge.

Article 30. In the event of rescindment of a sentencing verdict by a court of law, or in the event of a conditional quashing of criminal proceedings and an exonerating verdict, or in the event of the quashing of criminal proceedings, or, lastly, in the event of the waiving of the disciplinary punishment of demotion to a lower ranking position or expulsion from the Service, the consequences of the transfer to a lower ranking position or demotion in rank to the Employee also are waived. The waiving of any other consequences is decided upon by the Chief of the Office of State Protection.

Article 31.1. The discharging of an Employee from service on the basis of Article 26, Paragraph 4, or Article 29, Paragraph 1, Points 1) and 2), or Paragraph 2, Points 1) and 4) may not occur before the elapse of three months from the date of cessation of service owing to illness, unless the Employee requests a speedier discharge.

31.2. The discharging of an Employee from service on the basis of Article 29, Paragraph 1, Points 3) and 4), and Paragraph 2, Point 2) may not occur prior to the elapse of three months from the date of cessation of service owing to illness, unless the Employee requests a speedier discharge.

Article 32.1. During their pregnancy and maternity leaves, female Employees may not be discharged from service, with the exception of the cases referred to in Article 29, Paragraph 1, Points 3) and 4), and Paragraph 2, Points 2), 3), and 5).

32.2. In the event that a female Employee is discharged from service on the basis of Article 29, Paragraph 2, Point 5), she is entitled to receiving her salary until the end of her maternity leave.

Article 33. Employees are discharged from service by the Chief of the Office of State Protection.

Article 34.1. An Employee who is discharged from service is immediately provided with a certificate of service and, if he or she so requests, a copy of his or her performance evaluation.

34.2. An Employee may demand the rectification of his or her certificate of service and appeal to a higher superior against his or her performance evaluation within 7 days from the days of receipt of a written copy of said evaluation.

34.3. The specific data to be included in the certificate of service and in the performance evaluation, as well as the



procedure for issuing and rectifying certificates of service and submitting appeals against performance evaluation, are determined by the Minister of Internal Affairs in implementing regulations issued on the basis of Article 68.

#### **Chapter 5. Corps and Ranks of Employees of the Office of State Protection**

Article 35. The corps and ranks applying at the Office of State Protection are identical with military corps and ranks.

Article 36.1. The Employee is appointed to the rank of a private on the day of his or her appointment to a Service position.

36.2. Superiors authorized to handle personnel matters make the appointments to the rank of private and noncommissioned officer.

36.3. Appointments to the rank of ensign are made by the Minister of Internal Affairs or by an authorized superior.

36.4. Appointments to the initial officer rank and to the rank of general are made by the President of the Polish Republic on the recommendation of the Minister of Internal Affairs. Appointments to other officer ranks are made by the Minister of Internal Affairs.

Article 37.1. An appointment to the rank of noncommissioned officer or ensign hinges on a positive performance evaluation and on the Service position held. In addition, an appointment to the rank of:

1) Junior noncommissioned officer, requires the completion of a school for noncommissioned officers or passing an examination for noncommissioned officers.

2) Senior noncommissioned officer, requires a secondary educational background and the completion of a school for noncommissioned officers or passing an examination for noncommissioned officers.

3) Ensign, requires a secondary educational background and the completion of a school for ensigns or passing an examination for ensigns.

37.2. In particularly warranted cases appointments to the rank of the junior noncommissioned officer or to the rank of ensign may be made on bypassing the requirements referred to in Paragraph 1, Points 1), 2), or 3).

Article 38.1. Appointment to the initial officer rank requires a positive performance evaluation, holding a particular Service position, and the completion of a higher school of the Ministry of Internal Affairs or of another higher school and the officer training program at a higher school of the Ministry of Internal Affairs, or passing an officer examination.

38.2. In particularly warranted cases an Employee who does not meet the requirement of completing a school or

passing the examination referred to in Paragraph 1 may be nevertheless appointed to the initial officer rank.

Article 39. Promotion to the next higher rank occurs depending on the Service position and professional qualifications of the Employee as well as depending on the Employee's performance evaluation. However, promotion may not occur until after the following duration of service in the rank of:

- 1) Corporal, one year.
- 2) Senior corporal, one year.
- 3) Platoon leader, two years.
- 4) Sergeant, two years.
- 5) Master sergeant, three years.
- 6) Staff sergeant, three years.
- 7) Junior ensign, four years.
- 8) Ensign, four years.
- 9) Senior ensign, five years.
- 10) Staff ensign, five years.
- 11) Junior lieutenant, three years.
- 12) Lieutenant, four years.
- 13) Captain, five years.
- 14) Major, four years.
- 15) Lieutenant colonel, four years.

Article 40.1. In cases meriting the special consideration of an Employee with a positive performance evaluation and special professional or occupational skills or abilities for serving in an appropriate Service position, promotion to a higher rank may be made despite the failure to meet other requirements for that promotion, or in advance of the required period of time.

40.2. An Employee who is discharged from service may be promoted to a higher rank in view of his or her special contributions to strengthening state security.

Article 41.1. The ranks of noncommissioned officers, ensigns, officers, and generals are for life.

41.2. Employees who are discharged from service may continue to use the ranks referred to in Article 35, on qualifying them with the adjective:

- 1) "(Reserve)," if the Employee is subject to the obligation of military service and has been deemed fit for that service, or
- 2) "(Retired)," if the Employee is not subject to the obligation of military service.

41.3. Forfeiture of a rank referred to in Article 35 occurs in the event of:

- 1) Forfeiture of Polish citizenship, or
- 2) Sentencing by a court of law to the additional penalty of forfeiture of civil rights, or
- 3) Sentencing by a court of law to the penalty of imprisonment for a crime committed out of base motives.

Article 42. The forfeiture of rank or demotion to a lower rank is decided upon by the superior proper for appointment to the rank concerned. Forfeiture of the rank of junior lieutenant is decided upon by the Minister of Internal Affairs, while forfeiture of the rank of general is decided upon by the President of the Polish Republic.

Article 43.1. An Employee's rank is restored in the event of the rescindment of a:

- 1) Sentencing by a court of law to the additional penalty of deprivation of civil rights, or
- 2) Sentencing by a court of law to imprisonment for a crime committed out of base motives, or
- 3) Decision on the basis of which the forfeiture of the rank took place, or
- 4) Disciplinary punishment of demotion in rank.

43.2. The restoration of rank is decided upon by the superior official proper for appointment to the rank; the restoration of the rank of junior lieutenant is decided upon by the Minister of Internal Affairs, while the restoration of the rank of general is decided upon by the President of the Polish Republic on the recommendation of the Minister of Internal Affairs.

Article 44.1. A person accepted for service and having a military rank is appointed to the rank binding at the Office of State Protection and equivalent to that person's military rank.

44.2. When a person having the military rank of junior lieutenant is accepted for service, he is appointed to the corresponding initial officer rank by the Minister of Internal Affairs.

Article 45. The Minister of Internal Affairs specifies the rules and procedure for appointing Employees to ranks.

#### **Chapter 6. Rights and Duties of Employees of the Office of State Protection**

Article 46.1. An Employee is dutybound to adhere to the obligations ensuing from the text of the oath sworn.

46.2. The Employee is dutybound to refuse executing an order or a recommendation of his or her superior, as well as a recommendation of the public prosecutor or an agency of state administration, if executing said order or recommendation involves committing a crime.

46.3. The refusal to execute the order or recommendation referred to in Paragraph 2 should be reported by the

Employee to the Chief of the Office of State Protection on bypassing the regular channels.

Article 47.1. The official superior of the Employee who is unable to execute within the specified time limit or to the specified extent a recommendation of a court of law or a prosecutor referred to in Article 6, Paragraph 2, is dutybound to present a proposal for either extending the deadline or revising or waiving the recommendation.

47.2. In the event of an unjustified failure to execute the recommendation of a court of law or a public prosecutor of within the specified time limit or to the specified extent, the Employee's superior initiates disciplinary proceedings against the Employee. The court or the prosecutor is correspondingly notified about the outcome of these proceedings.

Article 48.1. In cases referred to in Article 6, Paragraph 2, and Article 7, Paragraph 1, Points 2) and 3), the Employee is required to present his or her official I.D. in a manner enabling the concerned party to read and note the number and name of the Employee and the name of the agency issuing the I.D.

48.2. While performing administrative and order-keeping activities, a nonuniformed Employee is dutybound to show, on demand by a citizen, his or her service I.D. card and badge in the manner described in Paragraph 1.

Article 49. An Employee may not engage in wage-earning activities outside the Service without permission by his or her superior.

Article 50.1. Employees may not belong to any political parties.

50.2. Once a person becomes an Employee, his or her membership in any political party automatically ceases.

50.3. An Employee is obligated to inform his or her superior about membership in any domestic association outside the Service.

50.4. Membership in a foreign or international organization or association requires permission from the Minister of Internal Affairs or from an authorized superior.

Article 51.1. An Employee is required to obtain for oneself, spouse, and child members of his or her household, permission from the Chief of the Office of State Protection or from an authorized superior for travel and sojourn abroad.

51.2. The Chief of the Office of State Protection may specify the cases in which the permission referred to in Paragraph 1 is not required.

Article 52.1. An Employee who is discharged from service on the basis of Article 29, Paragraph 1, Points 3) and 4), Paragraph 2, Point 2), and Paragraph 3, prior to the elapse of 10 years since completion of studies at a higher school of the Minister of Internal Affairs or at an

outside higher school at which his or her tuition was paid by the Ministry of Internal Affairs is obligated to refund an amount constituting the equivalent of the cost of the meals and uniforms received while attending the school.

52.2. The Minister of Internal Affairs determines the cost referred to in Paragraph 1 as well as the rules for refunding it and cases in which exemptions from such refunding are possible.

Article 53. In connection with the performance of his or her duties the Employee benefits from the protection provided for public servants in the Criminal Code.

Article 54. Employees may not belong to a trade union.

Article 55. An Employee with service-connected injury to health or property receives compensation by the procedure and in accordance with the rules specified in a separate decree. In the event of service-connected death of an Employee, the compensation is received by surviving family members.

Article 56.1. After 15 years of service an Employee acquires the right to a police retirement pension.

56.2. An Employee who has become disabled is eligible for a police disability pension.

56.3. Surviving family members of deceased Office of State Protection Employees are eligible to receive a family pension.

56.4. The rules for granting the benefits referred to in Paragraphs 1-3 are contained in the regulations governing retirement pensions for Police personnel and their families.

Article 57.1. An Employee is provided with a uniform and the appurtenances thereto free of charge.

57.2. The amount of and terms for granting the financial equivalent of the uniform and appurtenances are determined by the Minister of Internal Affairs in cooperation with the Minister of Finance.

Article 58. Employees receive special equipment. The rules for providing and wearing special equipment are determined by the Minister of Internal Affairs.

Article 59. The Minister of Internal Affairs specifies cases in which Employees receive meals, and the meal norms. Cases in which the financial equivalents of the meals may be paid, and the size of these equivalents, are determined by the Minister of Internal Affairs in cooperation with the Minister of Finance.

Article 60.1. Employees and their family members have the right to a roundtrip at the expense of the Ministry of Internal Affairs on state means of transportation once a year to a selected locality in this country, on terms defined by the Minister of Internal Affairs.

60.2. In the event of failure to utilize the right referred to in Paragraph 1, authorized Employees receive a lump-sum financial equivalent on terms to be defined by the Minister of Internal Affairs.

60.3. Persons referred to in Paragraph 1 may also be granted other social services and benefits whose kinds and nature are determined by the Minister of Internal Affairs in cooperation with the Minister of Labor and Social Policy.

Article 61. The Employee and his or her spouse are eligible for discounts in ticket prices when traveling on state means of transportation, to the extent and on the terms defined in an executive order of the Minister of Transportation and Navigation in cooperation with the Minister of Internal Affairs.

Article 62.1. The Employee and his or her family members are eligible for free medical services by the health service of the Ministry of Internal Affairs, on terms defined by the Minister of Internal Affairs.

62.2. The Employee and his or her family members may also avail themselves of free medical services by the institutions of the public health service to the extent and on the terms defined in the ordinance by the Minister of Health and Social Welfare and the Minister of Internal Affairs, or of medical services by other institutions of health service on the terms defined by the Minister of Internal Affairs in cooperation with the concerned ministers.

62.3. The services referred to in Paragraphs 1 and 2 are also available to persons authorized to receive retirement pensions on terms defined in the regulations governing the retirement pensions of Police personnel and their families.

Article 63.1. An Employee who has acquired the right to a police pension owing to a non-service-connected disability, as well as authorized members of his or her family and also persons authorized to receive the family pension after an Employee whose death is not service-connected, are eligible for free medical services at institutions of the public health service.

63.2. An Employee who is discharged from service and is not eligible for the retirement pension specified in the regulations governing the retirement pensions of Police personnel and their families, as well as of the members of his or her family, is eligible for the medical services of the institutions of the public health service to the extent and on the terms provided for employees with whom labor relationship has been terminated.

Article 64. Family members of the Employee who are eligible for the services referred to in Articles 60, 62, and 63, are considered to be the spouse and the children for whom a family allowance is received.

Article 65. The period of service of the Office of State Protection Employee is considered as work of a special

nature as construed by the regulations governing the retirement pensions of Employees and their families in general.

Article 66. Female Employees of the Office of State Protection are eligible for the special rights reserved for female Employees in general by the provisions of the Labor Law, unless the provisions of this Decree specify otherwise.

Article 67.1. For an Employee who takes another job within a year from the date of his or her discharge from service or, if he was discharged from the preparatory service, within 3 months from that date, the period of service [at the Office of State Protection] is credited to his or her work record so far as any and all rights ensuing from the Labor Law are concerned.

67.2. The provision of Paragraph 1 does not apply if the Labor Law specifies that the expiration of the periods of time referred to in Paragraph 1 is no impediment to the eligibility of an Employee for particular services.

67.3. If the Employee cannot start a new job within the time limits specified in Paragraph 1, owing to an illness causing work disability or invalidism, the Employee retains the rights referred to in Paragraph 1 in the event that he or she starts a new job within three months from the day his or her work disability or invalidism ceases.

67.4. The provisions of Paragraphs 1 and 2 do not apply to Employees who are discharged from service owing to their sentencing by a court of law or their disciplinary punishment of expulsion from the Service.

Article 68. The Minister of Internal Affairs defines in detail, within the limits specified by law, the manner and course of service at the Office of State Protection and the rights and duties of the Employees.

Article 69.1. Employees are entitled to an annual paid vacation of 30 calendar days.

69.2. An Employee gains the right to his or her first vacation after a year of service.

Article 70.1. When so dictated by important Service considerations, an Employee may be recalled from his or her vacation, or his or her vacation may be suspended entirely or in part. The scheduling of the vacation may also be changed upon the Employee's request as supported by important considerations.

70.2. An Employee who is recalled from a vacation is entitled to the reimbursement of the traveling expenses caused by his or her recall, in accordance with the norms established in the regulations governing the reimbursement of Employee relocation or reassignment expenses as well as of other expenses, as determined by the Minister of Internal Affairs.

70.3. The recall of an Employee from a vacation owing to considerations of duty requires the consent of the Employee's superior.

70.4. An Employee who has not availed himself or herself of the right to a vacation in a given calendar year should be granted that vacation within the first 3 months of the next calendar year.

Article 71. The Minister of Internal Affairs may introduce paid additional leaves of up to 15 calendar days annually for Employees who serve in particularly arduous and noxious conditions or who have reached a particular age or work seniority, or when so warranted by the particular nature of their service.

Article 72. An Employee may be granted a paid health leave or circumstantial leave, as well as an unpaid leave, for important reasons.

Article 73. The Minister of Internal Affairs determines the specific rules for granting leaves to Employees, the attendant procedure, and the extent of the leaves referred to in Articles 71 and 72.

Article 74. An Employee who performs his or her duties in a model manner, displays initiative at work, and advances his or her professional qualifications, may be granted the following distinctions:

- 1) Commendation.
- 2) Commendation in an order.
- 3) Monetary or in-kind award.
- 4) Brief leave.
- 5) A decoration from the Ministry of Internal Affairs.
- 6) Presentation for a state decoration.
- 7) Promotion to a higher rank ahead of the official schedule.
- 8) Promotion to a higher Service position.

#### **Chapter 7. Housing for Office of State Protection Employees**

Article 75.1. A regular Employee is entitled to housing in the locality in which he or she serves, or in a nearby locality, with allowance for the number of family members and their rights as ensuing from separate regulations.

75.2. An Employee serving in the preparatory service may be provided with temporary quarters.

Article 76. The family members of the Employee who are considered when allocating housing are the following members, insofar as they remain members of the Employee's household, as well:

- 1) Spouse.
- 2) Children (own, adopted, or foster children) who are supported by the Employee but only until they reach the age of 25.



3) The parents of the Employee and of his or her spouse to whom the Employee is the sole support or if, owing to age or disability or other circumstances, they are not able-bodied; the stepfather and stepmother as well as foster parents also are considered to be parents as the term is construed here.

Article 77. Housing for Employees is allocated from the housing stock at the disposal of the Minister of Internal Affairs or the agencies under his jurisdiction as obtained through investments or from local offices of state administration or from workplaces, and also as vacated by persons to whom it had been allocated by units under the jurisdiction of the Minister of Internal Affairs.

Article 78.1. The Employee is also entitled to the financial equivalent of the renovation of the housing occupied, with allowance for the number of family members and for their rights as ensuing from separate regulations.

78.2. The specific rules for disbursing the equivalent referred to in Paragraph 1 and the amount of that equivalent are determined by the Minister of Internal Affairs in cooperation with the Minister of Finance.

Article 79.1. An Employee is entitled to a financial equivalent if he himself or his family members lack housing in the locality of service or in a nearby locality.

79.2. The amount of and the specific rules for granting and disbursing the financial equivalent referred to in Paragraph 1 are determined by the Minister of Internal Affairs in cooperation with the Minister of Finance.

Article 80. An Employee who occupies housing in a locality close to the locality in which he or she serves is entitled to reimbursement of the expenses of commuting to work in the amount of the price of the train or bus tickets.

Article 81.1. An Employee who has not been administratively allotted housing is entitled to financial assistance from the housing fund or to housing in a housing cooperative or to a one-family home or to a dwelling constituting a separate piece of real estate.

81.2. The Minister of Internal Affairs defines the rules for awarding the financial assistance referred to in Paragraph 1 and the amount of that assistance.

Article 82. Housing is not administratively allocated to an Employee in the event that:

1) Financial assistance from the housing fund is utilized.

2) The Employee owns in the locality in which he or she serves, or in a nearby locality, housing that at least corresponds to the dwelling area he or she is entitled to by law, or a single-family home, or a boarding home.

3) The Employee's spouse owns the housing referred to in Point 2).

4) The Employee or his or her spouse sells the right to the ownership of a cooperative-built dwelling constituting a separate piece of real estate or a house referred to in Point 2), with the exception of cases referred to in Article 83, Paragraph 3.

Article 83.1. An Employee who is transferred for service in another locality and who owns an apartment, a single-family house, or a boarding home in the locality in which he or she had previously served, may be administratively allocated housing in the new locality if he or she:

1) Vacates the apartment or house in the old locality.

2) Refunds the financial assistance previously received for the purpose of:

a) Making a downpayment on cooperative-built dwelling, in the amount adjusted by the cooperative to reflect the current value of that dwelling.

b) Settling arrears in payments, in the amounts due.

83.2. An Employee who avails himself of financial assistance from the housing fund may be administratively allocated housing if he or she vacates the dwelling or house referred to in Paragraph 1 and refunds said financial assistance on the terms defined in this Decree.

83.3. The procedure for allocating housing in the cases referred to in Paragraphs 1 and 2, the detailed principles for refunding the received financial assistance, and the rules for vacating the occupied dwellings or houses referred to in Paragraph 1 are determined by the Minister of Internal Affairs.

83.4. An Employee transferred for service in another locality who fails to vacate the housing referred to in Paragraph 1 he or she had occupied in the previous locality, may be allocated temporary quarters in accordance with the applicable norms but without allowance for the family members residing in a common household with that Employee.

83.5. An Employee who is temporarily reassigned to another locality receives temporary quarters in that locality; the cost of these quarters is covered from the funds of the Office of State Protection.

Article 84.1. The Minister of Internal Affairs in cooperation with the Minister of Land Use Management and Construction determines the specific rules for the allocation and vacating of the housing referred to in Article 77 as well as the related norms of per person dwelling area and the specific rules for the allocation and vacating of temporary quarters.

84.2. The Minister of Internal Affairs in cooperation with the Minister of Land Use Management and Construction and the Minister of Finance determines the rent payable for the housing administered by the agencies under the jurisdiction of the Minister of Internal Affairs as well as the rules for refunding the differences

in rental fees for other, non-Ministry housing for which an Employee has to pay the rent.

84.3. Additional per person dwelling area norms, as determined on the basis of Paragraph 1, and as relating to the Service position held or the rank held, also apply when allocating to Employees housing other than that referred to in Article 77.

Article 85. An Employee who is discharged from service and not entitled to housing on the terms prescribed in the regulations governing the retirement pensions of Police personnel and their families, retains the right to the housing allocated to him or her in accordance with the norms binding nationwide, or may be relocated to other housing.

#### **Chapter 8. Basic Salary and Other Financial Benefits of Office of State Protection Personnel**

Article 86.1. The right to a salary is acquired on the day an Employee is appointed to a Service position.

86.2. By virtue of his or her service the Employee receives a single basic salary plus the financial benefits defined by law, all tax-exempt.

86.3. Employee salaries are increased to an extent that is not smaller than the average wages in the manufacturing sector.

86.4. The Council of Ministers annually determines the amount of the funds earmarked for raising Employee salaries.

Article 87. The salary of an Employee consists of the basic salary plus allowances.

Article 88.1. The Minister of Internal Affairs in cooperation with the Minister of Labor and Social Policy determines the scale of basic salaries for typical Service positions and the rates of increase in salaries in proportion to work seniority.

88.2. The Minister of Internal Affairs indirectly determines the scale of basic salaries in nontypical Service positions, within the limits of the salaries determined for the typical positions.

Article 89. The Minister of Internal Affairs determines the rules and procedure for crediting periods of service and work to seniority record, considered when determining the increase in basic salary.

Article 90.1. An Employee who is transferred to a Service position in a lower basic salary group retains the right to the basic salary received while holding his or her previous position until such time as he or she is granted a scheduled salary increase for the new position held.

90.2. In particularly justified cases the Minister of Internal Affairs may permit an Employee who is transferred to a Service position ranked in a lower basic salary group to continue to be ranked in the previously held position and retain the rank associated with that position.

90.3. The provision of Paragraph 1 does not apply to Employees transferred to a lower Service position on the basis of Article 26, Paragraph 1, or Paragraph 2, Points 2) and 3), and to Employees transferred at their own request.

Article 91.1. Employees receive the following allowances:

- 1) Rank allowance.
- 2) Service allowance.
- 3) Allowances justified by particular qualities, qualifications, conditions, or site of performance of service.
- 4) Family allowance.

91.2. Regular allowances are the allowances included in the salary each month.

91.3. The specific rules for eligibility for the salary allowances referred to in Paragraph 1 and the amounts of these allowances shall be determined by the Minister of Internal Affairs in cooperation with the Minister of Labor and Social Policy.

Article 92. The basic salary and the regular allowances are payable monthly and in advance. The Minister of Internal Affairs may determine which regular allowances are payable after the month rather than in advance.

Article 93.1. A change in salary occurs on the day on which circumstances warranting that change arise.

93.2. If the right to the salary is acquired, or the change in the salary occurs, after the first day of the month, the salary due for the remainder of the month is reckoned in the amount of one-thirtieth of the monthly salary for each additional month, unless special regulations provide otherwise.

93.3. The right to a salary expires on the last day of the month in which an Employee is discharged from service or other circumstances warranting the expiration of that right arise.

Article 94.1. Claims relating to the right to a salary and other benefits as well as financial payments are subject to a time limit of three years from the day on which they first can be presented.

94.2. The office proper for considering the claims may disregard the time limit referred to in Paragraph 1 if the delay in submitting the claim is justified by exceptional circumstances.

94.3. The expiration date of a claim relating to the right to a salary and other benefits and financial payments is proportionately extended by the time taken by:

1) Any activity involving contact with the head of an organizational unit under the jurisdiction of the Minister of Internal Affairs that is competent to examine the claim, taken directly with the object of investigating or determining or satisfying the claim.

2) Acknowledgment of the claim.

Article 95.1. An Employee is entitled to the following financial benefits:

1) Household allowance.

2) Awards and financial assistance.

3) Anniversary awards.

4) Extra pay for performing assignments that exceed normal duties.

5) Reimbursement of travel and relocation expenses.

6) Benefits associated with discharge from service.

95.2. In the event of death of the Employee or a family member, the following allowances apply:

1) Funeral allowance.

2) Death-connected severance pay.

Article 96. An Employee under permanent appointment is eligible for a household allowance equal to one month's basic salary plus the regular allowances received on the day of permanent appointment.

Article 97.1. An Employee may be granted awards and financial assistance in the amounts and on the terms determined by the Minister of Internal Affairs.

97.2. The size of the Employee Award and Assistance Fund is determined by the Council of Ministers.

Article 98. Employees are eligible for anniversary awards for many years of service, on terms determined by the Council of Ministers.

Article 99.1. For performing entrusted tasks that exceed the scope of his regular duties, an Employee may receive additional remuneration on terms determined by the Minister of Internal Affairs.

99.2. Remuneration for the inventions and technological and efficiency improvements devised by Employees is governed by separate regulations.

Article 100. In the event of transfer for service in another locality or temporary reassignment, the Employee is entitled to reimbursement for traveling and relocation expenses in the amount and on the terms determined by the Minister of Internal Affairs in cooperation with the Minister of Labor and Social Policy.

Article 101.1. An Employee who is discharged from service on the basis of Article 26, Paragraph 4, and Article 29, Paragraph 1, Points 1) and 2), and Paragraph 2, Points 1) and 3) to 5) receives:

1) Severance pay.

2) The financial equivalent of the annual vacations not taken in the year of discharge and/or in the preceding years.

3) The lump-sum financial equivalent of unutilized commuting expenses for a given year, from the funds of the Ministry of Internal Affairs.

4) Reimbursement of the cost of travel to a selected site of domicile for the Employee, spouse, and children inhabiting a common household, as well as reimbursement of the cost of relocating household furniture and accessories, in accordance with the rules mandatory for service-connected relocations.

101.2. An Employee who is discharged on the basis of Article 29, Paragraph 1, Point 3), receives 50 percent of severance pay and the financial equivalent of unused vacations for the years preceding the year of discharge from service.

101.3. The Minister of Internal Affairs or an authorized superior may, in cases warranting special consideration, grant, in view of justified needs of the Employee's family, severance pay in an amount not exceeding 50 percent in the event that the Employee is discharged from service on the basis of Article 29, Paragraph 1, Point 4), or Paragraph 2, Point 2).

Article 102.1. The amount of the severance pay disbursed to an Employee under permanent appointment equals three months of his or her basic salary plus regular allowances, received in the last Service position held. The severance pay is subject to being augmented by 20 percent of basic salary plus regular allowances for every additional full year of service after the first five years of continuous service, until the limit of the equivalent of six months of basic salary plus regular allowances is reached. A period of service exceeding six months is reckoned as a full year.

102.2. When determining the amount of the severance pay, allowance is also made for periods of continuous professional military service if, directly after his discharge from military service, a soldier is accepted for service in the Office of State Protection and has not received severance pay for his previous military service.

102.3. The provisions of Paragraph 2 apply correspondingly in the event that service in the Office of State Protection is undertaken following discharge from other services in which benefits of this kind apply.

102.4. The amount of severance pay for an Employee in the preparatory service is equal to one month's basic salary plus regular allowances received in the last Service position held.

Article 103.1. In the event of death of an Employee, the surviving family is entitled to a posthumous severance pay in the same amount as would have been due to that

Employee on his discharge from service, along with the benefits referred to in Article 101, Paragraph 1, Points 2) to 4).

103.2. The benefits referred to in Paragraph 1 apply to the spouse of the Employee who has lived with the Employee in a conjugal household, and, next, to the Employee's children or parents if on the day of the Employee's death they met the requirements for a family pension on the basis of regulations governing the retirement pensions of Police personnel and their families.

103.3. The provisions of Paragraphs 1 and 2 also apply to missing Employees. An Employee is declared missing by the Minister of Internal Affairs, who also determines whether this is service-connected.

Article 104.1. An Employee under permanent appointment who is discharged from service on the basis of Article 29, Paragraph 1, point 1), or Paragraph 2, Point 4), receives once monthly, for a year from the date of discharge from service, financial remuneration in an amount equivalent to his or her basic salary plus regular allowances received in the last Service position held, with the exception of the family allowance, which is disbursed in accordance with the rules applying to Employees.

104.2. An Employee eligible for the benefit referred to in Paragraph 1, who is also eligible for a retirement pension, has the right to choose between these two benefits.

Article 105. The severance pay referred to in Article 101 and the benefits specified in Article 104 do not apply to an Employee who has been directly after his or her discharge from service, accepted in professional military service or in another service in which the right to such benefits applies.

Article 106.1. In the event of death of an Employee, the following funeral allowance applies, irrespective of the posthumous severance pay:

1) The equivalent of three months of basic salary plus regular allowances received in the last Service position held, if the expenses of the funeral are borne by the spouse, children, grandchildren, siblings, or parents.

2) The equivalent of the actual funeral expenses, but not more than that referred to in Point 1), if these expenses are borne by another person.

106.2. If the death of an Employee occurs owing to a service-connected incident, the cost of the funeral is defrayed from the funds of the Ministry of Internal Affairs. The Minister of Internal Affairs may grant consent to defraying the expenses of the funeral of an Employee whose death is linked to a service-connected illness.

106.3. In the event that the expenses of an Employee's funeral are defrayed from the funds of the Ministry of

Internal Affairs, the persons referred to in Paragraph 1, Point 1), are entitled for one-half of the funeral allowance.

Article 107.1. In the event of death of a family member, the Employee is entitled to a funeral allowance amounting to the equivalent of:

1) Two months of basic salary plus regular allowances received in the last Service position held—if the expenses of the funeral are borne by the Employee.

2) The actual expenses of the funeral, but not more than the limit specified in Point 1)—if the expenses of the funeral are borne by another person.

107.2. The Minister of Internal Affairs determines the terms for defraying the expenses of an Employee's funeral from the funds of the Ministry of Internal Affairs and specifies the family members who are entitled to a funeral allowance.

107.3. In the event of convergence of the rights to a funeral allowance referred to in Paragraph 1 with the rights to a funeral allowance prescribed under separate regulations, the Employee is entitled to the higher allowance and, if he or she has already collected the lower allowance, to corresponding equalization pay.

Article 108.1. In the event of illness, furlough, or discharge from duty, as well as in the period when no Service assignments are received, an Employee receives his or her basic salary plus regular allowances due in the last Service position held, but with allowance for the changes occurring during that period which affect the Employee's right to the basic salary and regular allowances or the amount of that salary and these allowances.

108.2. The Minister of Internal Affairs may curtail entirely or partially the payment of certain salary allowances during the Employee's illness or circumstantial leave, or unassigned status.

Article 109.1. An Employee who is directed to a school or for retraining or for studies in this country receives a salary and other financial benefits in the amount and on the terms determined by the Minister of Internal Affairs.

109.2. The Minister of Internal Affairs determines, in cooperation with the Minister of Finance, the amount of and terms for disbursing the salaries and other financial benefits to Employees assigned to foreign academies or other foreign schools (courses).

Article 110.1. In the event that an Employee receives the emoluments envisaged in the regulations governing the emoluments of persons holding executive positions in the state, the Employee and his or her family members are entitled to the service-connected financial benefits and payments referred to in this Decree, with the exception of the benefits referred to in Article 59.

110.2. The financial benefits and payments referred to in Article 1 are disbursed in the determined amounts, with



allowance for the emoluments due the Employee in the last Service position held or according to the salary scale binding on the day of discharge from service or on the day of demise of the Employee.

Article 111.1. An Employee who is suspended from duty has 50 percent of his salary and allowances suspended as of the next payday, with the exception of the family allowance.

111.2. In the event that suspension from duty is waived, the Employee receives the suspended part of his or her salary and allowances, along with the mandatory increases in that salary and these allowances that occurred during the period of his or her suspension, unless the Employee has been discharged from service owing to sentencing by a court of law or punished by the disciplinary punishment of expulsion from the Service.

Article 112.1. An Employee under temporary arrest has 50 percent of his or her salary, other than the family allowance, suspended as of the next payday.

112.2. In the event that the criminal proceedings are quashed or a verdict of acquittal is reached in a court of law, the Employee receives the suspended part of his or her salary along with the mandatory increases in that salary during the period of his or her suspension, unless the quashing or acquittal takes place after the Employee has been discharged from service, with the proviso of the provisions of Paragraph 3.

112.3. The provisions of Paragraph 2 do not apply in the event that the criminal proceedings were quashed owing to the statute of limitation or owing to an amnesty, as well as in the event of a conditional quashing of these proceedings.

Article 113.1. An Employee who has voluntarily abandoned the site of performance of his or her duties or who remains outside that site or who refrains from serving, has his or her salary suspended as of the next payday. If the Employee has already collected his or her salary during the period of unexcused absenteeism, a corresponding part of the salary is deducted on the next payday.

113.2. In the event of justified absenteeism the suspended salary is paid to the Employee; in the event of unjustified absenteeism one-thirtieth of the monthly salary is deducted for each day of absenteeism in the month.

113.3. The provisions of Paragraphs 1 and 2 apply correspondingly in the event of an Employee's unjustified inability to perform his or her duties.

113.4. An Employee whose unpaid leave commences during a calendar month is entitled to receive one-thirtieth of his or her monthly salary for each day preceding the day of commencement of the unpaid leave. If the Employee has already collected his or her salary for the period of the unpaid leave, a corresponding part of his or her salary is deducted on the next payday.

Article 114.1. Employee emoluments may be garnished on the basis of judicial and administrative writs of execution as well as pursuant to separate regulations, on terms defined in the provisions governing judicial execution or executive proceedings in administration, or in other special regulations, unless otherwise specified in the subsequent provisions of this Decree.

114.2. The emoluments referred to in Paragraph 1 are construed as comprising the basis salary, salary allowances, the severance pay referred to in Article 101, and the benefits referred to in Articles 99 and 104. No deductions may be made from family allowance.

114.3. The family allowance due for persons on alimony is payable to these persons; this allowance is not part of the emoluments specified with the object of determining the amount of the alimony.

114.4. The Minister of Internal Affairs specifies the organizational units proper for making the deductions from emoluments and the procedure to be followed in such cases.

Article 115. The provisions of Article 114, Paragraphs 1-3, do not apply to advance payments disbursed, and in particular to advance payments of traveling, reassignment, and relocation expenses. These payments are deducted in full from the emoluments, irrespective of deductions for other reasons.

Article 116. Whenever this Decree refers to the regulations governing the retirement pensions of Police personnel and their families, this is to be construed as referring to the provisions of the Decree of 31 January 1959 on Retirement Pensions for Personnel of the Citizens' Militia and Their Families (Dz.U., No. 46, Item 210, 1983; No. 20, Item 85, 1985; No. 38, Item 181, 1985; and No. 35, Items 190 and 192, 1989) and to the implementing regulations issued on the basis of this Decree.

#### **Chapter 9. Disciplinary and Criminal Responsibility of Office of State Protection Personnel**

Article 117. An Employee bears disciplinary responsibility for the crimes and transgressions committed, irrespective of his or her criminal responsibility.

Article 118.1. An Employee is subject to disciplinary responsibility for violating Service discipline and in other cases referred to in this Decree.

118.2. If disciplinary proceedings are initiated on the recommendation of a court of law or a prosecutor, the court or the prosecutor is to be notified about their outcome.

118.3. The provision of Paragraph 2 applies correspondingly if a court orders the imposition of a disciplinary punishment on an Employee without specifying the nature of that punishment.

Article 119.1. The following kinds of disciplinary punishment may be imposed on Employees:

- 1) Admonition.
- 2) Reprimand.
- 3) Strict reprimand.
- 4) Reprimand with warning.
- 5) Warning of incomplete fitness for service in the position held.
- 6) Assignment to a lower Service position.
- 7) Demotion in rank.
- 8) Demotion of officer rank.
- 9) Warning of incomplete fitness for the Service.
- 10) Expulsion from the Service.

119.2. Irrespective of the penalties referred to in Paragraph 1, the penalty of prohibition against driving motor and other vehicles for a period of from six months to three years may be imposed. This penalty is imposed for a misdeed consisting in a violation of traffic regulations that is subject to being adjudicated by a collegium for transgressions where separate regulations provide for an appropriate verdict.

119.3. In justified cases the penalty of assignment to a lower Service position and the penalty of expulsion from the Service may be combined with the penalty of demotion in rank and, in cases concerning traffic violations, with the prohibition against driving motor and other vehicles.

Article 120.1. Disciplinary proceedings may not be initiated after the elapse of 90 days from the date the superior referred to in Article 124 is notified of the crime or of the violation of Service discipline.

120.2. Disciplinary penalties may not be imposed on an Employee after the elapse of one year from the day the misdeed referred to in Paragraph 1 is committed.

Article 121.1. The Employee bears disciplinary responsibility for the transgressions governed by the Code of Proceedings in Transgressions, unless subsequent provisions specify otherwise.

121.2. The sentencing bodies in cases of transgressions as well as other concerned agencies and institutions address recommendations for punishing the Employee to the Chief of the Office of State Protection.

121.3. For transgressions for which, pursuant to the Code of Proceedings in Transgressions, or to other regulations, the bodies specified in that Code and in these regulations have the power to impose fines, the Employees are drawn to disciplinary responsibility by being fined by these agencies.

121.4. In the event of refusal or failure to pay a fine on schedule, the fining body addresses a request for punishing the Employee to the Chief of the Office of State Protection.

Article 122. In cases referred to in Article 121 disciplinary punishment may not occur following the expiration of the statute of limitation for a given transgression as specified in the Code of Transgressions.

Article 123.1. For misdeeds for which, under separate regulations, the competent bodies are authorized to impose penalties for a breach of order, Employees bear only disciplinary responsibility.

123.2. Employees also are subject to disciplinary responsibility in cases in which the competent bodies are authorized to impose fines as a means of compulsion.

123.3. The bodies referred to in Paragraphs 1 and 2 request the Chief of the Office of State Protection to draw the Employee to disciplinary responsibility.

Article 124.1. The office proper for granting distinctions and imposing disciplinary penalties is that of the Chief of the Office of State Protection.

124.2. The specific rules and procedure for granting distinctions, conducting disciplinary proceedings, imposing and executing disciplinary penalties, appealing against these penalties, and the powers of the superiors in these matters are defined in an executive order of the Minister of Internal Affairs.

Article 125.1. An Employee who has exceeded his or her powers while performing his or her duties or who has failed to perform his or her duties completely, thereby violating the personal rights of a citizen, is subject to the penalty of imprisonment for up to five years.

125.2. If the Employee perpetrates the misdeed referred to in Paragraph 1 so as to violate the prohibition referred to in Article 12, Paragraph 1, he or she is subject to imprisonment for from one to five years.

Article 126. An Employee who, with the object of obtaining explanations, confessions, or declarations, resorts to physical duress, lawless threats, or moral tortures, is subject to imprisonment for from one to five years.

Article 127.1. An Employee who commits a prohibited deed constituting the execution of an order of a recommendation is not considered to have committed a crime unless he was aware, or accepted the idea, that in executing the order he or she was committing a crime.

127.2. In the event referred to in Paragraph 1 the person who had issued the order or recommendation is responsible for the perpetration of the crime.

Article 128. The official superior or senior Employee who orders or recommends to an Employee committing a deed constituting a crime is subject to imprisonment for from one to five years.

#### Chapter 10. Provisional and Final Regulations

Article 129.1. At the moment the Office of State Protection is established, the Security Service becomes disbanded.

129.2. The records, property, and job positions heretofore existing at the disposal of the Security Service shall be transferred by the Minister of Internal Affairs to the newly established central agencies in consonance with their powers.

Article 130. The Minister of Internal Affairs shall organize the Office of State Protection within three months from the effective date of this Decree.

Article 131.1. Once the Office of State Protection is organized, the personnel of the Security Service are by virtue of law discharged from service.

131.2. The provision of Paragraph 1 also applies to those members of the Citizens' Militia who had until 31 July 1989 been members of the Security Service.

Article 132.1. The Council of Ministers shall issue an ordinance defining the procedure and terms for accepting candidates for service in the Office of State Protection.

132.2. The Council of Ministers shall, within 10 days after the effective date of this Decree, define the procedure and terms for accepting former members of the Security Service referred to in Article 131 for service in the Office of State Protection and in other organizational units under the jurisdiction of the Minister of Internal Affairs.

Article 133. The current personnel of the Security Service as well as the personnel of the Citizens' Militia referred to in Article 131, Paragraph 2 who enter the Service or become employed in the organizational units under the jurisdiction of the Minister of Internal Affairs duly retain continuity of service or employment.

Article 134.1. Personnel released from duty in the Security Service, who do not assume duty of employment in organizational units under the jurisdiction of the Minister of Internal Affairs, retain the rights provided for personnel discharged from service on the basis of Article 29, Paragraph 2, Point 5), unless they have gained the right to be discharged from service on more favorable terms.

134.2. The personnel referred to in Paragraph 1 gain the right to the equalization allowance referred to in the Decree of 28 December 1989 on Special Rules for Terminating the Labor Relationship with Employees for

Reasons Concerning the Workplace and on the Revisions of Certain Decrees (Dz.U., No. 4, Item 19, 1990, and No. 10, Item 59, 1990).

134.3. The disbursement of equalization allowances to discharged personnel is defrayed from the funds of the Ministry of Internal Affairs.

Article 135. Whenever the laws refer to the "Security Service" and "personnel of the Security Service," this is to be henceforth construed as the "Office of State Protection" and "personnel of the Office of State Protection."

Article 136.1. The Decree of 31 July 1985 on the Service of Personnel of the Security Service and the Citizens' Militia of the Polish People's Republic (Dz.U., No. 38, Item 181, 1985; and No. 34, Item 180, and No. 35, Item 192, 1989) is hereby voided in its part concerning the Security Service, with the proviso of Paragraph 2.

136.2. During the interim period, until the Office of State Protection is organized, the provisions of the decree referred to in Paragraph 1 continue to apply to the former personnel of the Security Service mentioned in Article 131 of this Decree, insofar as the service relationship and the attendant rights and duties are concerned, with the exception of Article 57, Paragraph 1.

136.3. Until the implementing regulations envisaged in this Decree are issued, the existing regulations remain binding if they do not conflict with this Decree, but only for not longer than one year.

136.4. The provisions of Article 62 apply until the rules for the organizational structure, operation, and financing of the health service are revised.

Article 137. This Decree takes effect on the day of its publication.

President of the Polish Republic: W. Jaruzelski

#### Vetting Law for Former Security Personnel; Application Attached

90EP0737A Warsaw MONITOR POLSKI in Polish  
No 20, Item 159, 25 May 90 pp 190-192

[Resolution No. 159 of the Council of Ministers dated 21 May 1990 concerning procedures and conditions for accepting former Security Service personnel to serve in the Office of State Protection and other organizational units reporting to the minister of internal affairs, and their employment in the Ministry of Internal Affairs]

[Text] On the basis of Article 132, paragraph 2 of the law dated 6 April 1990 on the Office of State Protection (DZIENNIK USTAW, No. 30, item 180), the Council of Ministers decrees the following:

Section 1.1. Former functionaries of the Security Service referred to in Article 131 of the law dated 6 April 1990 on the Office of State Protection (DZIENNIK USTAW,

No. 30, item 180), henceforth referred to as "candidates," may be hired for service in the Office of State Protection, the Police, or another organizational unit reporting to the minister of internal affairs or employed by the Ministry of Internal Affairs after securing a favorable evaluation issued subsequent to qualification proceedings held by a proper qualification commission.

1.2. The Central Qualification Commission, the Qualification Commission for Central Cadres, and voivodship qualification commissions are set up with a view to carrying out qualification proceedings.

Section 2.1. The Central Qualification Commission is appointed by the chairman of the Council of Ministers from among the representatives of the Political Advisory Committee of the Minister of Internal Affairs, minister—Chief of the Office of the Council of Ministers, chief of the Office of State Protection, chief commandant of the Police, and the trade union of police officers, as well as from among other individuals with comprehensively recognized moral and social authority.

2.2. The chairman of the Council of Ministers will also invite representatives of the Sejm Commission on Administration and Internal Affairs and the Senate Commission on Human Rights and the Rule of Law to participate in the work of the Central Qualification Commission.

2.3. The chief of the Office of State Protection is the chairman of the Central Qualification Commission.

Section 3.1. The Qualification Commission for Central Cadres is nominated by the chief of the Office of State Protection from among the representatives of the organs and organizations and from among the persons referred to in Section 2, Paragraph 1. The chief of the Office of State Protection will also invite representatives of the Sejm Commission on Administration and Internal Affairs and the Senate Commission on Human Rights and the Rule of Law to participate in the work of the commission.

3.2. The chairman of the Qualification Commission for Central Cadres is nominated by the chief of the Office of State Protection.

Section 4.1. In every voivodship, the chairman of the Central Qualification Commission will appoint a voivodship qualification commission from among the representatives of the chief of the Office of State Protection, the chief commandant of the Police, and the trade union of police officers, as well as from among other individuals with moral and social authority recognized by the local community.

4.2. The chairman of the Central Qualification Commission will invite two deputies and a senator from a given voivodship to participate in the work of the voivodship qualification commission.

4.3. The chairmen of voivodship qualification commissions are appointed by the chairman of the Central Qualification Commission.

Section 5.1. The tasks of the Central Qualification Commission include:

1) The supervision of the progress of qualification proceedings and the work of the Qualification Commission for Central Cadres and voivodship qualification commissions.

2) The review of appeals by candidates of evaluations by the Qualification Commission for Central Cadres and the voivodship qualification commissions.

3) The submission of a report on the course of qualification proceedings to the Council of Ministers.

5.2. The tasks of the Qualification Commission for Central Cadres include carrying out the qualification proceedings and evaluating candidates who have been serving until now in the organizational subdivisions of the Security Service in the central echelon, and who are now seeking to be hired for service in the Office of State Protection, the Police, another organizational unit reporting to the minister of internal affairs, or are seeking employment in the Ministry of Internal Affairs.

5.3. The tasks of the voivodship qualification commissions include carrying out the qualification proceedings and evaluating candidates who are seeking to be hired for service in the Office of State Protection, the Police, another organizational unit reporting to the minister of internal affairs, or are seeking employment in the Ministry of Internal Affairs, except as provided by Paragraph 2.

5.4. Individuals subject to dismissal from the service pursuant to the Law on State Protection may not be members of the commissions referred to in Paragraphs 2 and 3.

Section 6.1. Proceedings before a voivodship qualification commission are initiated on the basis of an application for hiring made by a candidate on a form in keeping with the sample, constituting an annex to the resolution, which is filed with the commission within seven days of the date it is set up, except as provided by Paragraph 2.

6.2. The application referred to in Paragraph 1 may be filed by any candidate under 55. The chief of the Office of State Protection or the chief commandant of the police may request officially that qualification proceedings be conducted with regard to candidates who are over 55.

6.3. A voivodship commission establishes the place where applications are to be filed and notifies those interested of it.

Section 7.1. A voivodship qualification commission evaluates the fitness of a candidate for the service he



seeks to be admitted to on the basis of his application, personal documentation and that on the course of his service, and other documents submitted to it; the commission may also have an additional interview with a candidate on its own initiative or at the request of a candidate.

7.2. A voivodship qualification commission evaluates a candidate based on the kind of service he seeks admission to; the commission may express its opinion of the fitness of the candidate for other kinds of service.

7.3. The provisions of Paragraphs 1 and 2 apply accordingly if a candidate applies for employment at the Ministry of Internal Affairs.

7.4. A voivodship qualification commission uses the support of relevant personnel subdivisions of the Office of State Protection, the Police, and the Ministry of Internal Affairs.

Section 8.1. A voivodship qualification commission issues a favorable evaluation of a candidate if it finds that he meets the requirements envisaged for a functionary of a given service or employee of the Ministry of Internal Affairs and set forth in the law, and becomes convinced that he has moral qualifications for performing the service, specifically that he:

1) Has not allowed himself a violation of law in the course of his service to date.

2) Has discharged his service responsibilities in a manner which does not infringe on the rights and dignity of other individuals.

3) Has not used his official position for purposes unrelated to service.

8.2. A voivodship qualification commission immediately gives its evaluation in writing to the candidate.

Section 9.1. In the event the evaluation of a voivodship commission is unfavorable, a candidate is entitled to appeal to the Central Qualification Commission within seven days of the date of receipt of the evaluation.

9.2. The appeal referred to in Paragraph 1 is submitted through the proper voivodship qualification commission which immediately transmits it to the Central Qualification Commission together with all documents and materials regarding the candidates. The provision of Section 6, Paragraph 1 applies accordingly.

9.3. An evaluation made by the Central Qualification Commission on appeal is final. The Central Qualification Commission immediately informs the candidate and the voivodship qualification commission of the content of the evaluation.

Section 10. Positive evaluations of candidates are transmitted by the voivodship qualification commissions to the organs in charge of the issues of hiring for service with the organs and units reporting to the minister of internal affairs or for employment in the Ministry of Internal Affairs. Securing a favorable evaluation is a condition for being hired to serve in these organs or units or being employed by the Ministry of Internal Affairs.

Section 11. The minister of internal affairs will recall to the country candidates staying abroad in the line of duty if they fail to obtain a favorable evaluation from a proper qualification commission.

Section 12. The provisions of Sections 6 through 10 apply accordingly to proceedings before the Qualification Commission for Central Cadres and proceedings in the event of an unfavorable evaluation by this commission.

Section 13. The Central Qualification Commission, the Qualification Commission for Central Cadres, and voivodship qualification commissions may set forth the mode of accomplishing their tasks in detail, especially with regard to setting up teams for the consideration of applications by candidates.

Section 14. The resolution takes effect on the day of publication.

Chairman of the Council of Ministers: T. Mazowiecki

Annex to Resolution No. 69 of the Council of Ministers dated 21 May 1990 (item 159)

#### Application

for being hired for service with.....\* by the former officer of the Security Service

1. Rank, first name, last name

2. Unit and the last position held

3. Description of the course of service in the Ministry of Internal Affairs, the Voivodship Office of Internal Affairs, the District Office of Internal Affairs\*\*

4. My concept of my fitness for further service with.....\*

5. Financial status

6. Were you disciplined, and what for?

(signature)

Note: The candidate fills out the form in his own hand

\*Depending on the subject of the application, write in: the Office of State Protection, the Police, or another kind of service in a unit reporting to the minister of internal affairs, or employment at the Ministry of Internal Affairs.

\*\*Strike out what is unnecessary.

**Law on Privatization of State Enterprises**

90EP0743A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 23 Jul 90 pp 3-4

[Law dated 13 July 1990 concerning the privatization of state enterprises; also to be published in DZIENNIK USTAW, number and date not yet available]

[Text]

**Chapter 1. General Provisions**

Article 1. The privatization of a state enterprise consists in offering to third parties stock or shares in the company exclusively owned by the State Treasury, to which the enterprise is converted, as well as in offering to third parties the property of the enterprise or selling it to them. To this end a state enterprise may be converted to a company or liquidated in accordance with the provisions of this Decree.

Article 2.1. On the recommendation of the Council of Ministers the Sejm defines each year the basic directions of privatization and specifies the purposes of the funds thereby derived. The Sejm takes these decisions concurrently while passing the annual Budget Decree.

2.2. The Council of Ministers issues an ordinance identifying the state enterprises of special importance to the state economy whose privatization requires the consent of the Council of Ministers.

Article 3. The provisions of this Decree governing the statute, shares, share capital, supervising board, and general meeting apply correspondingly to the agreement, shares, founding capital, supervising council and meetings of the partners in a company with limited responsibility.

Article 4. Whenever this Decree refers to:

- 1) Foreign entities—this is construed to mean:
  - a) Individuals residing abroad.
  - b) Corporate persons sited abroad.
  - c) Partnerships of individuals or corporate persons referred to in a) and b) which lack legal entity.
- 2) Share offerings—this is construed to mean, in particular, stock sales, sales of stock warrants, encumbrances on shares, or share leases.
- 3) Organized component of the property of a state enterprise—this is construed to mean an ensemble of material and nonmaterial elements that may constitute a separate enterprise, in particular, a plant, a store, or a service outlet.

**Chapter 2. Conversion of a State Enterprise to a Company**

Article 5.1. The minister of ownership transformation may convert a state enterprise to a company upon:

1) The joint recommendation of the enterprise's director and worker council, presented after consulting the general meeting of employees (delegates) and the parent agency.

2) The recommendation of the parent agency, offered with the consent of the enterprise director and worker council upon consulting the general meeting of employees (delegates).

5.2. The recommendation referred to in Paragraph 1 should include, in particular: an economic and financial assessment of the enterprise to be converted, a draft founding charter of the proposed company as required by the provisions of the Commercial Law Code, and the proposed scope of the rights of the enterprise's employees to acquire shares in the company from the State Treasury.

5.3. The minister of ownership transformation may refuse the conversion of a state enterprise to a company out of consideration for the economic and financial situation of the enterprise or for important national interests.

5.4. The refusal of the conversion referred to in Paragraph 3 should be issued within three months from the date the conversion proposal is submitted and it should either contain, in addition to its rationale, a list of the requirements which would have to be met before the conversion can happen or specify the date on which the matter will be reconsidered. This refusal may be appealed by the procedure defined in Article 61 of the Decree of 25 September 1981 on State Enterprises (Dz.U., No. 35, Item 201, 1987; No. 10, Item 57, 1989; No. 20, Item 107, 1989; and No. 17, Item 99, 1990).

Article 6.1. The chairman of the Council of Ministers may, on the recommendation of the minister of ownership transformation, order the conversion of the state enterprise into a company. In this case the provisions of Article 5 do not apply.

6.2. The minister of ownership transformation makes the recommendation referred to in Paragraph 1 upon consulting the director and the worker council of the state enterprise and its parent agency; if these fail to respond within 1 month, this is construed to mean that they have no objections.

6.3. The activities connected with privatization are performed by the minister of ownership transformation.

Article 7. The company formed as a result of the conversion of a state enterprise is bound by the provisions of the Commercial Law Code, unless specified otherwise in this Decree.

Article 8.1. The company formed as a result of the conversion of a state enterprise remains a company exclusively owned by the State Treasury until its stock is offered to third parties.

8.2. The company formed as a result of the conversion of a state enterprise assumes all the rights and liabilities of the converted enterprise.

8.3. The company assumes, by virtue of law, the rights and duties of the converted enterprise ensuing from administrative decisions.

Article 9.1. The employees of the converted enterprise become, by virtue of law, employees of the company, with the proviso of Paragraph 2.

9.2. The employment relationship of an appointive employee is terminated by virtue of law once the enterprise is deleted from the registry of state enterprises. The termination of the employment relationship is, in its legal consequences, tantamount to the termination of an employment relationship owing to a recall. The employment of such an employee by the company takes place on terms agreed upon by both parties.

9.3. The director of the converted enterprise is not entitled to the severance pay envisaged in the Decree on State Enterprises if this director becomes employed as a member of the administration of the company formed as a result of the conversion of the enterprise.

9.4. The company is responsible for the obligations relating to employment relationship that were contracted by the enterprise prior to its conversion.

Article 10. The statute of the company formed as a result of the conversion of a state enterprise is determined by the minister of ownership transformation on behalf of the State Treasury.

Article 11. The closing balance of the state enterprise becomes the opening balance of the company, with the combined founding capital and operating funds of the enterprise becoming the capital of the company. The statute of the company specifies the part of its capital constituting share capital and the part constituting the capital reserve.

Article 12.1. The governing board of the company applies to enter it in the Commercial Registry immediately after its statute is determined.

12.2. The deletion of the converted state enterprise from the Registry of State Enterprises occurs ex officio at the moment the company is entered in the Commercial Registry.

Article 13. Companies formed as a result of conversion of the state enterprises whose shares are entirely owned by the State Treasury are bound by the provisions of Articles 14-16.

Article 14.1. Until their shares are offered to third parties, companies are correspondingly bound by the regulations governing the accounting rules for state enterprises, with allowance for the provisions of the Commercial Law Code.

14.2. The minister of finance may issue ordinances defining the detailed rules for accounting and book-keeping at stock companies, with allowance for the provisions of the Commercial Law Code.

Article 15.1. The governing board of a company publishes an audited annual balance sheet and a profit-and-loss statement in a regular daily newspaper within two weeks from the date of the audit.

15.2. The publication referred to in Paragraph 2 names the agency or office which performed the auditing of the balance sheet.

Article 16. A company formed in consonance with law may be a single-person founder of a joint-stock company.

Article 17.1. A supervising council is formed at a company formed as a result of the conversion of a state enterprise. Company employees elect one-third of that council's membership.

17.2. The provisions of the company statute governing the elections to the supervising council may not be waived or altered during the period when more than one-half of the shares remains owned by the State Treasury, unless a majority of the employee-elected members of the supervising council grant their consent thereto.

17.3. The regulations governing the protection of members of worker councils at state enterprises apply to the protection of the labor relationship of the company employees elected to the supervising council.

17.4. Elections to the supervising council by means of balloting by separate groups (Article 370, Paragraphs 3-5, of the Commercial Law Code) can be conducted only with regard to those council members who are not employee-elected.

### Chapter 3. Share Offerings to Third Parties

Article 18.1. Sales of and encumbrances on shares owned by the State Treasury in companies formed as a result of the conversion of state enterprises, as well as the acquisition of shares in such companies if these are entirely owned by the State Treasury, are governed by the provisions of the Commercial Law Code, unless this Chapter specifies otherwise.

18.2. Gratuitous disposal of shares require the consent of the Council of Ministers.

Article 19.1. Offerings of shares belonging to the State Treasury are decided upon by the minister of ownership transformation. All available shares should thus be offered within two years from the date the company is entered in the Commercial Registry, unless the Council of Ministers specifies a longer interval of time.

19.2. Access of foreign entities to shares requires prior consent by the chairman of the Agency for Foreign

Investments if the nominal value of these shares exceeds 10 percent of the share capital or if the shares constitute preferred stock.

19.3. The provisions of Paragraph 2 also apply in the event shares are offered to a legal entity with an office in this country which is controlled directly or indirectly by a foreign entity.

19.4. The decision to augment the share capital by issuing shares in a company hitherto owned solely by the State Treasury is taken by the minister of ownership transformation. Access to these shares for foreign entities is correspondingly governed by the provisions of Paragraphs 2 and 3.

Article 20.1. Before the shares are offered to third parties the minister of ownership transformation orders the performance of an economic and financial assessment of the company formed from a state enterprise, with the object of determining its financial worth and the needs for organizational, economic, or technological changes.

20.2. The minister of ownership transformation may refrain from ordering the economic and financial assessment referred to in Paragraph 1 if the value of the enterprise had been appraised prior to its conversion and shares are to be offered immediately after its conversion.

20.3. The minister of ownership transformation orders that a study be performed with the object of determining the legal status of the assets of the company formed from a state enterprise, with special consideration of the claims of third parties to these assets.

20.4. The minister of ownership transformation issues executive orders defining the procedure for performing and funding the analyses and the qualifications required of the persons performing the analyses.

Article 21. The minister of ownership transformation may make share offerings to third parties contingent on introducing the changes referred to in Article 20, Paragraph 1, at the company formed from a state enterprise.

Article 22.1. Before offering shares to third parties the minister of ownership transformation may, with the consent of the minister of finance, gratuitously take over the company's liabilities, in part or as a whole.

22.2. The minister of ownership transformation makes public his intention to take over a company's liabilities by the procedure envisaged for public announcements by the company, by calling on creditors to file any claims or objections within not more than two months from the date of the announcement.

22.3. Creditors who, within the time limit specified in Paragraph 2, withhold consent to the takeover of the debts due them, should be satisfied or protected prior to the takeover. The takeover of the obligations of a company is announced by the minister of ownership transformation by the procedure envisaged for public announcements by companies.

Article 23.1. With the caveat of the provisions of Article 24, shares belonging to the State Treasury are sold by the following procedures:

- 1) By auction.
- 2) On the basis of a publicly announced offering.
- 3) As a result of negotiations undertaken on the basis of a public invitation.

23.2. In special cases the Council of Ministers may, on the recommendation of the minister of ownership transformation, permit a different—from that specified in Paragraph 2—procedure for disposing of shares owned by the State Treasury.

23.3. Sales of stock warrants concerning shares owned by the State Treasury are not valid if performed by a procedure other than that specified in Paragraph 1.

23.4. The minister of ownership transformation shall, in cooperation with the minister of finance, issue executive orders defining the rules for funding the process of offering for sale the shares owned by the State Treasury in the companies formed as a result of the conversions of state enterprises.

Article 24.1. The employees of a state enterprise that has been converted into a company have the right of preferential treatment when purchasing up to 20 percent of the total number of shares in that company owned by the State Treasury. In addition, the employees have the right to buy additional shares on the same principles as the general public.

24.2. Employees should be enabled to utilize their right to preferential treatment in purchasing shares not later than within two months from the date the first shares are offered to the general public.

24.3. The right of employees to preferential treatment in purchasing shares expires after a year from the date the shares were offered to them.

24.4. Shares sold on preferential basis are shares sold to employees at one-half the price fixed for the general public, Polish citizens, offered on the first day of sale. This price is not subject to change during the period referred to in Paragraph 3.

24.5. The aggregate value of the share price discounts granted to the employees of a state enterprise converted to a company may not exceed the product of the mean annual wage of an employee in the state sector for the last 12 months preceding the registration of the company in the Commercial Registry, multiplied by the number of the employees who purchase shares.

24.6. The number of shares sold on preferential basis to discrete employee groups and the terms and schedule for their payment are defined in the company statute, with allowance for the recommendation referred to in Paragraph 5.



24.7. Farm producers with regular contracting or coproducing ties to the enterprise also are eligible for preferential purchase of shares on terms specified for employees.

24.8. The Council of Ministers shall define the kinds of enterprises whose shares may be purchased on the terms referred to in Paragraph 7.

Article 25.1. On the recommendation of the Council of Ministers the Sejm passes resolutions on the issuance and value of privatization coupons serving to pay for the acquisition of:

1) Stock rights in companies resulting from the conversion of state enterprises.

2) Participatory rights in financial institutions (mutual investment societies) disposing of shares in companies resulting from the conversion of state enterprises.

3) Enterprises or organized components of the property of state enterprises referred to in Article 37.

25.2. The privatization coupons issues on the basis of Paragraph 1 are allocated gratis in equal amounts to all citizens of the Polish Republic resident in this country.

25.3. The Council of Ministers issues ordinances specifying the validity periods of discrete coupon issues, the form of the coupons, the rules for their distribution and utilization, and the rules for curtailing and eventually prohibiting the distribution of the coupons to third parties.

Article 26. The Council of Ministers may issue ordinances specifying that certain of the coupon issues referred to in Article 25 may be offered on credit terms.

Article 27.1. Under separate regulations, securities may also be tendered in payment for shares purchased from the State Treasury.

27.2. The Council of Ministers specifies in an ordinance, on the recommendation of the minister of ownership transformation, the form of payment required for shares purchased from the State Treasury.

27.3. The minister of ownership transformation may, with the consent of the minister of finance, allow share buyers who are Polish citizens to pay for shares in installments.

Article 28.1. The minister of ownership transformation transmits shares to a bank or another financial institution on terms to be defined in agreements if the rights to these shares are not utilized within three months from the date on which they are offered, as referred to in Article 19, Paragraph 1.

28.2. The bank or another financial institution exercises, in accordance with the agreement in effect, its rights as owner of the shares transmitted thereto. The income thereby derived is transferred to the State Treasury.

Article 29. State legal entities may not acquire rights to shares belonging to the State Treasury, unless the minister of finance consents thereto.

Article 30. The provisions of this chapter also apply to the transfer of share rights and the collection of shares in a company whose sole stockholder is the State Treasury.

Article 31. To the extent regulated in this chapter, the provisions of Article 41 of the Decree of 23 December 1988 on Economic Activity with the Participation of Foreign Entities (Dz.U., No. 41, Item 325, 1988, and No. 74, Item 442, 1989) do not apply.

Article 32.1. In the event of an increase in the share capital of a company formed from a state enterprise, the contribution of a foreign entity to the share capital should meet the requirements of Article 16, Paragraph 2, of the decree referred to in Article 31. This provision applies correspondingly to the payment for the shares.

32.2. The requirements specified in Paragraph 1 are considered as satisfied also in the event that the funds contributed by a foreign entity to the share capital of, or used to buy shares in, a company formed from a state enterprise derive from its share dividends, from the sale of the shares it owns, or from the monies due it in the event that a company is liquidated.

Article 33.1. The income of foreign entities from shares received or acquired on the terms referred to in Article 32 may be transferred abroad pursuant to the provisions of Articles 19, 20, and 29 of the decree referred to in Article 31.

33.2. Even if the terms referred to in Article 32 are not met, the minister of finance may, on the recommendation of the minister of ownership transformation, consent to the application of the provision of Paragraph 1 to the repatriation of the share income of a foreign entity.

Article 34.1. The income derived by a foreign entity from the sale or annulment of shares and the funds due the foreign entity in the event of the shutdown of a company may be, after paying the taxes due, transferred abroad without a foreign-exchange permit.

34.2. The rules for the transfer abroad of funds in Polish currency derived from the sources referred to in Paragraph 1 are defined by the minister of finance in an executive order. These funds should be transferred in their entirety within five years from the date they are obtained, unless an international agreement to which the Polish Republic is a party specifies otherwise.

Article 35. Articles constituting nonmonetary contributions [to the assets of a newly formed company] by a foreign entity are exempt from importation duties and other similar fees.

Article 36. The provisions of Articles 31-35 also apply to companies whose sole founder is a company exclusively owned by the State Treasury. These provisions also

apply to the capital contributions, share purchases, taxation, and the repatriation of the income of foreign entities from share dividends, share sales, or annulments of shares in such companies, as well as to the funds due a foreign entity in the event a company is liquidated.

#### **Chapter 4. Privatization of State Enterprises by Means of Liquidation**

Article 37.1. A parent agency may, with the consent of the minister of ownership transformation, liquidate a state enterprise with the object of:

1) Selling the enterprise or organized components of its assets.

2) Contributing the enterprise or organized components of its assets to a newly formed company.

3) Leasing for use for a specified period of time the enterprise or organized components of its assets.

37.2. The decision to liquidate is taken by the parent agency on its own initiative or on the recommendation of the enterprise's worker council.

37.3. The worker council and the enterprise director have the right of appeal against the decision referred to in Paragraph 2 by the procedure defined in Article 61 of the decree referred to in Article 5, Paragraph 4.

Article 38.1. The liquidation of an enterprise with the object of leasing its assets, as referred to in Article 37, Paragraph 1, Point 3), may occur if:

1) The recommendation for the liquidation and lease is passed by the worker council after consulting the general meeting of employees (delegates).

2) The transfer of assets is to the newly formed company.

3) A majority of the employees of the liquidated enterprise join the company.

4) The partners all are individuals, unless the minister of ownership transformation decides otherwise.

5) The size of the share capital or founding capital is not less than 20 percent of the aggregate value of the founding capital and operating funds of the liquidated enterprise.

38.2. Liquidation with the object of leasing may occur without meeting the requirements of Paragraph 1, Point 3) if a company meeting these requirements is not formed within two months from the date of the passage of the liquidation recommendation by the worker council, or if the general meeting of employees (delegates) expresses its consent thereto.

Article 39.1. The leasing of assets occurs on the basis of an agreement concluded by the parent agency on behalf of the State Treasury.

39.2. The parties to the agreement referred to in Paragraph 1 may specify that, after the elapse of the period of time for which the agreement is valid, the user has the right to purchase the assets being leased. The purchase price is determined with allowance for the value of the services provided so far under the lease.

39.3. The minister of finance shall define the rules for determining the payments due for leasing the property of the State Treasury in the cases referred to in Paragraphs 1 and 2.

Article 40. In the event of the liquidation of a state enterprise on the basis of the Decree on State Enterprises, the parent agency may, on behalf of the State Treasury:

1) Contribute to the newly formed company the whole or a part of the assets remaining after the liquidation of the enterprise.

2) Sell the whole or a part of the assets remaining after the liquidation of the enterprise.

Article 41. The assets of a liquidated state enterprise or organized components of these assets are sold or leased by the parent agency pursuant to the provisions of Articles 23 and 26 as well as Article 39, Paragraph 3.

Article 42. Sole-owner companies of the State Treasury formed pursuant to Article 37, Paragraph 1, Point 2), and Article 40, Point 1), as well as offerings of shares in these companies, are correspondingly governed by the provisions of Chapters 2 and 3 of this Decree.

Article 43. The sale of an organized component of a state enterprise is correspondingly governed by the provisions concerning the sale of the enterprise.

#### **Chapter 5. Special, Provisional, and Final Regulations**

Article 44. For the notarial activities connected with the conversion of a state enterprise to a company, a regular fee is collected by notarial offices. The amount of that fee will be fixed in an executive order by the minister of justice.

Article 45.1. The provisions of this Decree apply correspondingly to the privatization of municipal enterprises, with the proviso of Paragraphs 2 and 3.

45.2. The powers, prescribed in this Decree, of the minister of ownership transformation and the parent agency, are correspondingly vested in the gmina [rural township] board or gmina association board so far as the privatization of municipal enterprises is concerned.

45.3. The gmina or association of gminas may, on the basis of an agreement with the minister of ownership transformation, transfer to that minister the handling of the activities connected with the privatization of an enterprise. The conclusion of said agreement requires the passage of a resolution by the gmina council or gmina association council.

Article 46.1. The minister of finance may, in cases warranted by important economic interests, on the recommendation of the minister of ownership transformation, exempt a company from income tax and wage-increase tax for a period of up to three years from the date shares in that company are purchased by a foreign entity from the State Treasury or acquired by that entity in a company whose sole owner is the State Treasury.

46.2. In the event that a company is liquidated during the period of its exemption from the income tax, or within three years from the elapse of that period, the company is required to pay that tax for the period covered by the exemption. In this case, the tax obligation arises once the liquidation of the company is declared.

Article 47. The Council of Ministers shall present, within 2 months from the effective date of this Decree, to the Sejm the recommendation referred to in Article 2, Paragraph 1, for the year 1990.

Article 48. The following amendments are incorporated in the Executive Order of the President of the Polish Republic of 27 June 1934 on the Commercial Law Code (Dz.U., No. 57, Item 502, 1934; No. 57, Item 321, 1946; No. 34, Item 312, 1950; No. 16, Item 94, 1964; No. 13, Item 95, 1969; No. 41, Item 326, 1988; and No. 17, Item 98, 1990):

1) In Article 207 the expression "who hold the positions of chief accountant, legal adviser, plant director, or other positions directly subordinated to a member of the board" is inserted each time before the expression "employees of the company."

2) In Article 378 the expression "who hold the positions of chief accountant, legal adviser, plant director, or other positions directly subordinated to a member of the board" is inserted each time before the expression "employees of the company."

Article 49.1. The following amendments are incorporated in the decree of 25 September 1981 on State Enterprises (Dz.U., No. 35, Item 201, 1987; No. 10, Item 57, and No. 20, Item 107, 1989; and No. 17, Item 99, 1990):

1) The following Article 25/2/ is inserted after Article 25/1/:

"Article 25/2/. The order to liquidate a state enterprise on the basis of the Decree on State Enterprises is given on consulting the minister of ownership transformation."

2) Article 29 is deleted.

3) In Article 30.

a) In Paragraph 1 the expression "and the procedure for liquidating a state enterprise with the object of founding a company" is deleted.

b) In Paragraph 2 the expression "following the liquidation of a state enterprise" is followed by a comma and the expression "including also liquidation on the basis of the Decree on the Privatization of State Enterprises."

4) In Article 40, the expression "parent agency" is followed by the expression "in accordance with the Decree of .... on the Privatization of State Enterprises (Dz.U., No. ..., Item...)."

49.2. Uncompleted proceedings to liquidate a state enterprise, initiated pursuant to Article 29 of the Decree of 25 September 1981 on State Enterprises, are completed on the basis of the present Decree.

Article 50. In the Decree of 28 December 1989 on Special Rules for the Termination of Labor Relationship with Employees for Reasons Concerning the Workplace, and on Revisions of Certain Decrees (Dz.U., No. 4, Item 19, 1990; and No. 10, Item 59, 1990), the following amendments are incorporated:

1) Paragraph 3 of Article 8 is reworded as follows:

"3. However, severance pay is not granted to employees who:

"1) Are authorized to receive lump-sum severance pay in connection with their retirement owing to age or on a disability pension.

"2) Prior to the day the labor relationship is terminated, received job offers from the workplace which is taking over the total or partial assets of their original workplace, or from the workplace established as a result of such takeover.

"3) After the termination of their labor relationship initiate economic activity on their own or as part of a company or a cooperative in connection with the takeover of specified components of the liquid or fixed assets of their original workplace; this also applies to an employee who, at the moment of the termination of his labor relationship, is a partner in a company, or a member of a cooperative, engaging in such takeover."

2) Article 14 is deleted.

Article 51. This Decree takes effect on the day of its publication.

#### **Law Establishes Office of Minister for Ownership Transformation**

90EP0742A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 23 Jul 90 p 4

[Law dated 13 July 1990 concerning the creation of Office of Minister for Ownership Transformation; also to be published in DZIENNIK USTAW, number and date not yet available]

[Text]

Article 1. The Office of the Minister of Ownership Transformation is established.

Article 2.1. The scope of activities of the minister of ownership transformation includes implementing the state's policy on ownership transformations, and in particular:

1) Developing the assumptions of state policy on the privatization of state enterprises.

2) Developing, in cooperation with the minister of foreign economic cooperation, the assumptions of state policy on foreign capital cooperation.

3) Performing the duties defined in the regulations governing the privatization of state enterprises.

4) Performing analyses of the status of ownership transformations.

5) Cooperation with trade unions, associations, chambers of commerce and industry, and other social organizations, as well as with offices of state administration and local self-governments, in establishing and promoting the growth of private enterprise.

6) Initiation of the training, basic and advanced, of personnel for handling privatization measures, the securities market, and the development of private firms, as well as dissemination of the related experience and information.

7) Exercise of other duties ensuing from separate regulations.

2.2. The duties of the minister of ownership transformation referred to in Paragraph 1, Points 1) to 6) do not encroach on the competences of other agencies promoting these duties under separate regulations.

2.3. The minister of ownership transformation shall, in cooperation with the minister of finance and the chairman of the National Bank of Poland, take measures to establish the institution of the securities market.

Article 3. The minister of ownership transformation may recommend to legal entities or individuals the performance of specified civil-law and actual actions within the scope of his activities.

Article 4.1. The Council of Ministers issues an ordinance defining the specific scope of activities of the minister of ownership transformation.

4.2. The Council of Ministers confers a statute of organizational structure on the Ministry of Ownership Transformation and determines the list of organizational units under the minister's jurisdiction. The statute may provide for the establishment of regional offices of the ministry and define the scope of their activities.

Article 5.1. The Council for Ownership Transformations under the Chairman of the Council of Ministers is established as an advisory body regarding the privatization of state enterprises.

5.2. The Council for Ownership Transformations:

1) Evaluates the draft regulations referred to in Article 2 of the Decree of 13 July on the Privatization of State Enterprises (Dz.U., No. ..., Item....) [as published; DZI-ENNIK USTAW number and item number unavailable at present].

2) Evaluates the conversions of state enterprises into companies on the basis of Article 6, Paragraph 1, of the Decree referred to in Point 1.

3) Evaluates proposals for the gratuitous disposal of Treasury-held stock and shares in the companies formed as a result of the conversion of state enterprises.

4) Evaluates proposals for [line missing] convened by the chairman of the Council of Ministers [line missing] regular procedure for the sales of stocks and shares as reported on the basis of Article 23, Paragraph 2, of the decree referred to in Point 1.

5) Evaluates the draft decisions mentioned in Article 22, Paragraph 1, of the decree referred to in Point 1), and draft ordinances issued on the basis of Article 25, Paragraph 3, of aforesaid decree.

6) Evaluates, on the recommendation of the minister of ownership transformation, particularly complex problems of privatization.

5.3. The chairman, deputy chairman, and seven members of the Council for Ownership Transformation, are appointed by the chairman of the Council of Ministers upon consulting the appropriate Sejm committee. Likewise, upon consulting the appropriate Sejm committee, the chairman of the Council of Ministers may recall the chairman, the deputy chairman, or members, or the entire membership, of the Council for Ownership Transformation.

5.4. The procedural rules of the Council for Ownership Transformation shall be defined by the Council of Ministers.

Article 6. The following amendments are incorporated in the Decree of 23 December 1988 on Economic Activity with the Participation of Foreign Entities (Dz.U., No. 41, Item 325, 1988; and No. 74, Item 442, 1989):

1) In Paragraph 1, the expression "on the recommendation of the minister of ownership transformation" is added each time before the expression "the chairman of the Council of Ministers".

2) In Paragraph 2 the expression "to the the minister of ownership transformation" is added each time before the expression "to the chairman of the Council of Ministers".



3) In Paragraph 3 the expression "the minister of foreign economic cooperation" is replaced each time with the expression "the minister of ownership transformation".

4) In Paragraph 5 the expression "the minister of foreign economic cooperation" is replaced each time with the expression "the minister of ownership transformation."

Article 7. This decree takes effect on the day of its publication.

### **Uniform Text of Amended Law on State Enterprises Published**

#### **Ministry Announcement**

90EP0748A Warsaw RZECZPOSPOLITA (REFORMA GOSPODARCZA supplement) in Polish No 183, 31 May 90 p 3

[Proclamation of the minister of industry dated 24 May 1990 regarding publication of the uniform text of the law dated 25 September 1981 on state enterprises]

[Text] 1. Pursuant to Article 8 of the law dated 9 March 1990 on amending the law on state enterprises (DZIENNIK USTAW, No. 17, item 99) the uniform text of the law dated 25 September 1981 on state enterprises (DZIENNIK USTAW, No. 24, item 122) is being published as a supplement to the present proclamation, taking into account amendments made by:

1) The laws: dated 29 December 1982 on the office of the minister of finance and treasury offices and chambers (DZIENNIK USTAW, No. 45, item 289), dated 29 June 1983 on improving the management of a state enterprise and its insolvency (DZIENNIK USTAW, No. 36, item 165), dated 21 July 1983 on specific legal regulations in the period of overcoming the socio-economic crisis and on amending certain laws (DZIENNIK USTAW, No. 39, item 176), dated 20 September 1984 on asset and personal insurance (DZIENNIK USTAW, No. 45, item 242), dated 15 November 1984 on communications (DZIENNIK USTAW, No. 54, item 275), dated 23 October 1987 on amending certain laws regulating the operation of the national economy (DZIENNIK USTAW, No. 33, item 181)—which [amendments] are given in the uniform text established in the proclamation of the chairman of the Planning Commission of the Council of Ministers dated 7 November 1987 (DZIENNIK USTAW, No. 35, item 201).

2) The law dated 24 February 1989 on certain conditions for the consolidation of the national economy and on amending certain laws (DZIENNIK USTAW, No. 10, item 57).

3) The law dated 7 April 1989 on amending the law—Labor Code and on amending certain laws (DZIENNIK USTAW, No. 22, item 107).

4) The law dated 9 March 1990 on amending the law on state enterprises (DZIENNIK USTAW, No. 17, item 99) as well as taking into account changes resulting from the regulations issued before the date the present uniform text was issued, and with consecutive numeration on chapters, articles, paragraphs, and points used.

2. The uniform text of the law given in the supplement to the present proclamation does not include the following regulations:

1) Title of Chapter 14 Transition and Final Regulation and Articles 67 through 70 of the law dated 25 September 1981 on state enterprises (DZIENNIK USTAW, No. 24, item 122) which read:

"Article 67.1. Chief, central, and local organs of state administration which have supervised state enterprises become their parent agencies as of the day the present law takes effect.

"67.2. The economic units which are entered in the register of state enterprises as of the day the law takes effect become, by law, state enterprises for the purposes of the present law.

"67.3. The organs maintaining the register of enterprises to date will transfer this register with the pertinent documentation to the court having jurisdiction as envisaged by the provision of Article 19, Point 2 within three months of the day the law takes effect. Until the date of the transfer of the register, these organs maintain the register along the old guidelines.

"67.4. The associations of state enterprises are to be abolished along the guidelines, through the procedures, and before the deadlines established by the Council of Ministers.

"Article 68.1. The directors of state enterprises will submit draft enterprise statutes to the general meetings of the work forces within one month of the day the law takes effect.

"68.2. The general meetings of the work forces will adopt the statutes of enterprises within one month of the day the drafts are submitted.

"Article 69.1. The decree dated 26 October 1950 on state enterprises (DZIENNIK USTAW, 1960, No. 18, item 111) is invalidated [dates as given].

"Executive regulations issued on the basis of the decree referred to in Paragraph 1 remain in force until they are replaced with regulations issued on the basis of the present law, insofar as they do not run counter to the law.

"69.3. Current regulations apply to the matters in question until the law referred to in Article 14, Paragraph 2 is published.

"69.4. Current regulations apply to the state enterprises together with changes following from the present

law until the publication of the laws provided for by Article 51, Paragraph 1, as well as the adjustment of the laws mentioned in this regulation to the provisions of the present law.

"Article 70. The law takes effect on 1 October 1981."

2) Article 18 of the law dated 29 December 1982 on the office of the minister of finance and treasury offices and chambers (DZIENNIK USTAW, No. 45, item 289) which reads:

"Article 18. The law takes effect on 1 January 1983."

3) Article 47 of the law dated 29 June 1983 on improving the management of a state enterprise and on its insolvency (DZIENNIK USTAW, No. 36, item 165) which reads:

"Article 47. The law takes effect on 1 October 1983."

4) Article 25 of the law dated 21 June 1983 on specific legal regulations in the period of overcoming the socio-economic crisis and on amending certain laws (DZIENNIK USTAW, No. 39, item 176) which reads:

"Article 25. The law takes effect on the day of publication provided that the regulations of Chapter 1 of the law apply from the day of the cancellation of martial law, which was introduced by a resolution of the Council of State dated 12 December 1981 on introducing martial law with a view to the security of the state, and suspended by the resolution of the Council of State dated 19 December 1982 on suspending martial law."

5) Article 76 of the law dated 20 September 1984 on asset and personal insurance (DZIENNIK USTAW, No. 45, item 242) which reads:

"Article 76. The law takes effect on 1 January 1985."

6) Article 87 of the law dated 15 November 1984 on communications (DZIENNIK USTAW, No. 54, item 275) which reads:

"Article 87. The law takes effect on 1 March 1985."

7) Articles 19 and 26 of the law dated 23 October 1987 on amending certain laws regulating the guidelines for the operation of the national economy (DZIENNIK USTAW, No. 33, item 181) which read:

"Article 19. The associations created as provided by Article 60, Paragraph 2 of the law referred to in Article 22 which exist on the day the present law takes effect are subjected to liquidation within three months of the day the law takes effect, unless the deadlines for their liquidation occur sooner."

"Article 26. The law takes effect on the day of publication, except that the provisions of Article 11, Point 9 and Point 13, subpoint b) take effect on 31 March 1988.

and the provisions of Article 3, Article 5, Points 5 and 6, Article 7, Article 8, Point 2, Articles 9, 10, and 14 take effect on 1 January 1988."

8) Article 17 of the law dated 24 February 1989 on certain conditions for the consolidation of the national economy and on amending certain laws (DZIENNIK USTAW, No. 10, item 57) which reads:

"Article 17. The law takes effect on the day of publication, except that Articles 1 and 2 and Articles 4 through 7 apply until 31 December 1990."

9) Article 7 of the law dated 7 April 1989 on amending the law—Labor Code and on amending certain laws (DZIENNIK USTAW, No. 20, item 107) which reads:

"Article 7. The law takes effect on 1 May 1989."

10) Articles 2, 3, 4, 5, 6, 7, and 9 of the law dated 9 March 1990 on amending the law on state enterprises (DZIENNIK USTAW, No. 17, item 99) which reads:

"Article 2. 1. The labor contract of the director of a state enterprise who was nominated before the present law took effect expires two years after the day the law takes effect unless it expires earlier.

"2.2. The labor contract of the director of a state enterprise appointed within three years before the present law takes effect in compliance with the requirements of Article 39, Paragraph 1 of the law referred to in Article 1, expires five years after the date of appointment unless it is terminated earlier.

"2.3. In cases of the termination of a labor contract of the director of a state enterprise referred to in Paragraphs 1 and 2, the director is entitled to severance pay along the guidelines set forth in Article 394 of the law referred to in Article 1. The severance pay is not due if the director was appointed for five years and the labor contract was terminated at the expiration of this period or if immediately after the labor contract is terminated he is reappointed again to the same position.

"2.4. Guidelines for the remuneration of the directors appointed before the day the law takes effect are set by the Council of Ministers.

"Article 3. The following amendments are made in the law dated 25 September 1981 on the self-management of the work force of a state enterprise (DZIENNIK USTAW, No. 24, item 123, 1986, No. 17, item 88, 1987, No. 33, item 181, and 1989, No. 10, item 57):

"1) Article 3 is amended to read:

"Article 3. Except as provided by Article 398 of the law dated 25 September 1981 on state enterprises (DZIENNIK USTAW, 1987, No. 35, item 201, 1989, No. 10, item 57 and No. 20, item 107, as well as 1990, No. 17, item 99), work in the employee council of an enterprise and in the employee council of a plant is volunteer in nature."

"2) In Article 24, Paragraph 1:

"a) Point 4 is amended to read:

"4) Expressing consent to setting up or joining a commercial company or another organizational structure envisaged by legal provisions, or purchasing its quotas (shares) as well as adopting resolutions on the issue of leaving such a structure, demanding its dissolution, or disposing of its quotas (shares)."

"b) Point 5 is added which reads:

"5) Expressing consent to giving up the holding of auctions in the process of giving the segments of enterprise assets to corporate or natural persons to be used, in a form envisaged by civil law with a view to conducting economic operations, as well as expressing consent to giving fixed assets which are the components of enterprise assets to corporate or natural persons for their use.

"c) Point 10 is amended to read:

"10) Expressing consent to disposing of the fixed assets constituting the objects of permanent use by the enterprise and to making gifts.

"3) Article 34 is deleted.

"Article 4. In the law dated 26 January 1984 on guidelines for creating enterprise remuneration systems (DZIENNIK USTAW, 1988, item [as published; "No" is called for] 28, item 196 and 1989, No. 35, item 192 and No. 48, item 261) in Article 1:

"1) Paragraph 6 is amended to read:

"6. Following an agreement with nationwide trade union organizations, the Council of Ministers determines by decree the guidelines for remunerations of the managers and temporary managers of enterprises referred to in Paragraph 1, Points 2 through 4, 6, and 7, except as provided by Paragraph 7. Guidelines for the remunerations of the managers of the units referred to in Points 1 and 5 are subject to separate regulations.

"2) In Paragraph 7, the digit "five" is deleted.

"Article 5. In the law dated 31 January 1989 on the financial management of state enterprises (DZIENNIK USTAW, No. 3, item 10 and No. 74, item 437), Paragraphs 2 and 3 are deleted in Article 16.

"Article 6.1. In the law dated 24 February 1989 on certain conditions for the consolidation of the national economy and on amending certain laws (DZIENNIK USTAW, No. 10, item 57) Articles 1 through 7, 10, and Paragraph 2 in Article 16 are deleted.

"6.2. Proceedings in cases conducted along the guidelines and through the procedures determined on the basis of Article 4 or Article 7 of the law which was referred to in Paragraph 1, which are not completed as of

the day the present law takes effect, are conducted along the guidelines and through the procedures set forth in the law on state enterprises.

"6.3. Within six months of the day the present law takes effect, the Council of Ministers will provide to the Sejm information on using the powers resulting from the provisions of Articles 1 through 7 of the law which is referred to in Paragraph 1.

"Article 7.1. The law dated 29 June 1983 on improving the management of a state enterprise and on its insolvency (DZIENNIK USTAW, 1986, No. 8, item 46, and 1989 No. 3, item 10) is invalidated.

"7.2. Regulations previously in effect apply to proceedings for improving the management of a state enterprise or for its insolvency initiated before the day the law takes effect.

"Article 9. The law takes effect on the day of publication."

#### Law on State Enterprises

90EP0748B Warsaw RZECZPOSPOLITA (REFORMA GOSPODARCZA supplement) in Polish No 183, 31 May 90 pp 1, 3

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[Text] Amendments made several weeks ago in the law on state enterprises, which has been amended many times in the past anyway, were so profound that the Sejm charged the minister of industry with preparing a uniform text of the law with a view to facilitating the use of it.

On 24 May, the minister of industry issued a proclamation in the matter. We offer the proclamation to our readers in its entirety; however, we are reversing the sequence. First, we publish the uniform text of the law which is a supplement to the proclamation, and only after that, the enabling regulations, i.e., the proclamation.

#### Chapter 1. General Provisions

Article 1. State enterprises are independent, self-governing, and self-financing economic units which are corporate persons.

Article 2.1. Enterprise organs make decisions and organize operations in all matters of an enterprise independently, in keeping with the law, and with a view to accomplishing the tasks of the enterprise.

2.2. State organs may only make decisions on the operation of state enterprises in cases envisaged by legal regulations.

Article 3.1. The Council of Ministers will outline by a decree the extent of the application of the provisions of the law to state enterprises reporting to the minister of national defense, as well as the minister of finance and the National Bank of Poland, and enterprises reporting to the minister of justice and operating at corrections facilities.

3.2. The Council of Ministers will also outline by a decree the extent of the application of the provisions of the law to state enterprises which accomplish the tasks entailed by the security of the country in their entirety or for the most part, as well as the organizational units of other enterprises accomplishing such tasks.

Article 4. The provisions of the present law, with the exception of the provisions on the register of state enterprise, do not apply to:

- 1) The state enterprise "Polish State Railroads."
- 2) The state enterprise "Airports."
- 3) The state enterprise LOT Polish Airlines.
- 4) Banks.
- 5) State enterprises set up on the basis of Article 6, Paragraph 2, item a), of the law dated 20 December 1949 on the management of state forests (DZIENNIK USTAW No. 63, item 494 as amended later).

## Chapter 2. Creation of State Enterprises

Article 5. State enterprises may be set up as:

- 1) Enterprises operating along general guidelines.
- 2) Public utility enterprises.

Article 6.1. The primary goal of public utility enterprises is to meet the current needs of the population without interruption. In particular, the task of these enterprises is to produce or render services in the field of:

- 1) Water supply and sewage.
- 2) Urban transit.
- 3) The supply of electric, gaseous, and heat energy to the populace.
- 4) The management of the state housing stock.
- 5) The management of state green belts.
- 6) The management of resorts.
- 7) Burial services and the maintenance of cemetery facilities.
- 8) Cultural services.

6.2. The parent agency will determine, within the confines of regulations in effect, the extent and conditions upon which public utility enterprises are obligated to render services to the populace.

6.3. The parent agency has a duty to subsidize the operations of a public utility enterprise, the operation of which is unprofitable but necessary in view of the need to meet the needs of the populace.

6.4. The Council of Ministers will set forth by a decree conditions and guidelines for the operation of public utility enterprises.

Article 7.1. State enterprises are created by:

- 1) Main and central organs of state administration.
- 2) Local organs of state administration on the basis of a resolution by a corresponding people's council.
- 3) The National Bank of Poland and state banks referred to in subsequent regulations as parent agencies.

7.2. In justified cases, state organs other than those enumerated in Paragraph 1 may set up a state enterprise by agreement with the main or central organ of state administration which has jurisdiction by virtue of the type of operations of the enterprise created.

7.3. An act on the creation of an enterprise sets forth its name, type, site, and line of business.

7.4. An act on the creation of a public utility enterprise may also set forth guidelines and conditions for setting up plants, branches, departments, and other internal organizational units of the enterprise which draw up their own balance sheets.

Article 8. A parent agency may, by agreement with another organ entitled to set up state enterprises, assign to it the powers and responsibilities of the parent agency with regard to a particular state enterprise.

Article 9. 1. Local organs of state administration may set up joint state enterprises on the basis of the resolutions of the people's councils concerned.

9.2. The Council of Ministers will set forth by a decree conditions and procedures for setting up the enterprises referred to in Paragraph 1.

Article 10.1. The creation of a state enterprise is preceded by preparatory proceedings aimed at verifying and evaluating the need and conditions for setting up the enterprise.

10.2. An organ which intends to set up a state enterprise creates to this end a preparatory group which comes up with the necessary findings and submits its evaluation.

## Chapter 3. Mixed Enterprises

Article 11.1. The organs of state administration may set up and liquidate international enterprises together with other states.

11.2. Conditions for setting up and liquidating such enterprises, as well as guidelines for their operation, are determined by agreements and contracts between the interested states.

Article 12. A state enterprise may create economic units envisaged under the provisions of law for economically substantiated ends together with other corporate persons, as well as natural persons.



#### Chapter 4. Enterprise Charter

Article 13.1. The charter of an enterprise regulates the organizational structure of the enterprise and other issues envisaged by the present law.

13.2. The charter is approved by a general meeting of employees at the request of the director of the enterprise.

Article 14.1. The charters of the following state enterprises must be confirmed by the parent agencies:

- 1) Public utilities.
- 2) Foreign trade.
- 3) Radio and TV stations, telecommunications and electronics industry enterprises, motor transportation and construction enterprises, and communications enterprises.
- 4) State Motor Transport and rolling stock repair enterprises.

14.2. A decision on confirming the statute should be made in as short a period of time as possible, but no longer than three months from the moment the charter is submitted to the founding organs.

#### Chapter 5. Register of State Enterprises

Article 15.1. A state enterprise will be entered in the register of state enterprises.

15.2. The courts are registering organs. The jurisdiction of these courts manager of this enterprise in [an apparent printing error—translator's note] regulations on the structure of general courts is established by the minister of justice.

Article 16.1. A copy of the act on setting up the enterprise, the charter, and other documents, the submission of which is required by regulations issued on the basis of the present law and detailed regulations accompany the request to enter a state enterprise in the register of state enterprises.

16.2. A registering organ verifies the compliance of the contents of the documents which constitute the basis for making an entry in the register with the law.

16.3. The register of state enterprises is available to persons who have a legal interest in it, with the exception of data which constitute state and economic secrets.

Article 17. A state enterprise becomes a corporate person the moment it is entered in the register.

Article 18. The Council of Ministers will set forth by a decree guidelines and methods of maintaining the register of state enterprises, data which are to be entered in the register, requirements for applications for entries in the register, procedures for making, amending, or deleting entries in the register, guidelines for access to the register, and provisions and conditions for making copies and extracts from the register.

#### Chapter 6. Mergers, Splitting, and Liquidation of Enterprises

Article 19.1. Mergers and splitting of a state enterprise set up through procedures set forth in Article 7 are ordered by the parent agency on its own initiative, with the consent of the employee council, or at the request of the employee council of the enterprise.

19.2. With a view to better utilizing the means of production better and improving economic efficiency, the minister who has jurisdiction by virtue of the line of business of enterprises may make decisions on splitting a state enterprise:

- 1) On his own initiative.
- 2) At the request of the parent agency or the employee council of the enterprise.
- 3) At the request of the employee council or the manager of an enterprise drawing up a balance sheet or the manager of such an enterprise which has no employee council.

Upon soliciting the opinion of the parent agency and enterprise organs. These decisions may be protested as provided by Article 65.

Article 20.1. A state enterprise may be liquidated if:

- 1) After paying the profit tax, the profit of the enterprise is not sufficient for the payment of dividends.
- 2) The enterprise has been barred from operations in all areas which the line of business to date includes by a legally valid court ruling or a final administrative decision, and the enterprise has not undertaken operations in another area.
- 3) A curative commission makes such a proposal.
- 4) More than one-half of the total value of enterprise assets:
  - a) Consists of shares, other titles to interest in partnerships, or bonds.
  - b) Has been transferred to other persons for use under civil-law contracts.

20.2. A decision on liquidation is made by the parent agency on its own initiative or at the request of the employee council of the enterprise, provided that the minister of finance has failed to offer objections within two weeks.

Article 21. The decision of a parent agency referred to in Article 20 may be protested by the employee council and the enterprise director as provided by Article 65.

Article 22.1. The draft of a merger, breakup, or liquidation of a state enterprise is presented to a general meeting of employees or the employee council of the enterprise and the trade unions operating at the enterprise, in order to determine their position.

22.2. In the case of a petition to liquidate the enterprise, the position may include proposals for overcoming the difficult economic situation of the enterprise.

Article 23.1. Preparatory proceedings are held prior to making a decision on merging, breaking up, or liquidating an enterprise.

23.2. The parent agency sets up a preparatory group for carrying out the preparatory proceedings. This group studies the reasons, goals, need for, and conditions of intended organizational changes and submits its opinion.

Article 24.1. A state enterprise may be declared insolvent.

24.2. Conditions, guidelines, and procedures for insolvency proceedings are set forth in the provisions of a separate law.

Article 25.1. In economically justified cases, the employee council and the director of a state enterprise may, with the consent of a general meeting of employees, jointly request that the parent agency consent to transforming the enterprise into a company.

25.2. The parent agency which consents to the transformation of an enterprise into a company sets forth conditions for its liquidation with a view to founding a company.

25.3. The consent of the founding organ should be preceded by preparatory proceedings to which the provisions of Article 10 apply accordingly.

Article 26.1. The Council of Ministers will set forth by decree conditions and procedures for merging, breaking up, and liquidating state enterprises, as well as procedures for liquidating a state enterprise with a view to starting a company.

26.2. The Council of Ministers will set forth by a decree the kinds of employee claims guaranteed by the state treasury which remain or are created after the liquidation of a state enterprise, and the guidelines for meeting them.

#### Chapter 7. Organization of State Enterprises

Article 27.1. The creation of plants and other organizational units of a state enterprise, the system of internal control, legal relations between organizational units which belong to the enterprise, and guidelines for entering into legal relations with other organizational units are set forth in the enterprise charter.

27.2. In a multiplant enterprise, the extent of rights and responsibilities of plants should be in line with the character of their operations, as well as conditions and needs.

Article 28.1. The organizational regulations of a state enterprise set forth in detail the scope of operations, the

division of activities, and the responsibility of individuals performing management and independent functions in the enterprise.

28.2. The organizational regulations of an enterprise are set forth by the director upon soliciting the opinion of the employee council.

Article 29.1. The charter of a state enterprise may provide for setting up a board of the enterprise and a technical-economic council as advisory and consultative organs for the director.

29.2. Members of these organs are nominated by the director of an enterprise.

Article 30.1. The charter of an enterprise may provide for the nomination by its director of a commission for resolving disputes over assets between organizational units belonging to the enterprise.

30.2. The commission is headed by the legal counsel of the enterprise.

30.3. The findings of the commission are final unless the charter provides otherwise.

#### Chapter 8. Organs of a State Enterprise

Article 31. A general meeting of the employees (delegates), the employee council, and the enterprise director are the organs of a state enterprise.

Article 32. The jurisdiction of a general meeting of employees (delegates) and the employee council is set forth in the law on the self-management of enterprise work forces.

Article 33.1. The director of a state enterprise manages the enterprise and represents it on the outside.

33.2. Acting in keeping with the provisions of law, the director of a state enterprise makes decisions independently and is accountable for them.

Article 34.1. The director of a state enterprise is nominated by the employee council.

34.2. In newly organized enterprises, the first enterprise director is nominated by the parent agency. The parent agency may nominate a director through the same procedures if the employee council of the enterprise fails to take advantage of the powers provided by Paragraph 1 for more than six months.

34.3. Until a director is nominated at a newly organized enterprise, the parent organ may appoint a temporary enterprise manager for a period of not more than six months. This provision does not violate the powers referred to in the first sentence of Paragraph 2.

Article 35.1. Directors of public utility enterprises are appointed and recalled by the founding organ.

35.2. The employee council may protest the decision of the parent agency referred to in Paragraph 1 as provided by Article 65.

Article 36.1. The director of an enterprise is appointed from among the candidates determined by means of a competition. The appointment of a director without a competition is invalid.

36.2. A jury of the competition includes three people appointed by the employee council and two people indicated by the parent agency.

36.3. The Council of Ministers will set forth by a decree the organization and procedures for holding the competition.

Article 37. An enterprise director is nominated for five years or for an indefinite period of time.

Article 38.1. An employee council may recall the enterprise director upon soliciting the opinion of the parent agency. The parent agency states its opinion within one month of the day it is solicited. The failure to state an opinion does not suspend proceedings in the matter of recalling the director.

38.2. The parent agency has a right to make a substantiated objection to the decision of the employee council referred to in Paragraph 1 within two weeks of the receipt of a notification. The objection suspends the execution of the decision.

38.3. In the event the employee council supports the decision, the parent agency has the right to take the case to court within seven days. The court schedules a hearing within 14 days.

38.4. The director of an enterprise is recalled by the parent agency in cases which give grounds for the dissolution of a labor contract without notice, as well as for the reasons referred to in Article 43.

38.5. The employee council is entitled to protest the decision referred to in Paragraph 4 as provided in Article 65.

Article 39.1. If the protest of a decision on recalling the director of a state enterprise has been lodged, the dissolution of the labor contract with the recalled director occurs through the procedures and along the guidelines set forth in Articles 70 through 72 of the Labor Code after the protest is withdrawn by the organ making it, or after a court rejects the petition to cancel the decision (resolution) on recalling the director.

Article 40.1. In the event a director is recalled he is entitled to severance pay equal to his remuneration for six months.

40.2. Severance pay is not provided if the recall occurred:

- 1) At the request of the director.

2) For reasons which give grounds for the dissolution of the labor contract without notice by the fault of the employee, for the reasons referred to in Article 43.

Article 41.1. Legal actions with regard to the labor contract of the director of an enterprise are taken by the organ which nominated the director.

41.2. The organ nominating the director of a state enterprise proposes the terms of employment and remuneration to individuals who take part in a competition for the position of director.

Article 42.1. An employee council which has a right to nominate a director may suspend him in his position for no more than six months if the further performance of responsibilities by him endangers fundamental interests of the enterprise. The employee council appoints a temporary enterprise manager for the period of suspension.

42.2. The director of an enterprise and the parent agency are entitled to protest the decision on suspension as provided by Article 65. The objection does not suspend the execution of the decision.

42.3. For the duration of suspension, the director retains the right to remuneration to date and other entitlements resulting from the labor contract.

Article 43.1. The director of a state enterprise, his deputy, the chief accountant, individuals employed in equivalent positions, and members of the employee councils cannot participate, or have shares in the economic units created by this enterprise, or have labor contracts with them or do work for them by virtue of a different legal arrangement. This ban does not apply to being members of the councils of trustees.

43.2. A violation of the provision of Paragraph 1 is grounds for a recall from one's position or severing the labor contract. The provision of Article 6, Paragraph 1 of the law dated 25 September 1981 on the self-management of enterprise work forces (DZIENNIK USTAW, No. 24, item 123; 1986, No. 17, item 88; 1987, No. 33, item 181, and 1989, No. 10, item 57) does not apply.

43.3. The provision of Paragraph 1 does not violate regulations on the special duties of individuals discharging management responsibilities in economic units.

Article 44. The individuals referred to in Article 43, Paragraph 1 are entitled to a commission from the profit of a state enterprise. The Council of Ministers will set forth by a decree guidelines for the award of commissions.

Article 45. The deputy director of an enterprise and the chief accountant are appointed and recalled by the enterprise director with the consent of the employee council.

Article 46.1. The employee council of an enterprise may approach the parent agency with a petition to recall the director of an enterprise appointed by this organ if the director:

- Seriously violates the provisions of the law by his activities.
- Through his improper work causes the enterprise to fail to achieve satisfactory economic results.

46.2. The employee council may approach the director of an enterprise with a substantiated petition to recall a deputy director.

46.3. An organ which receives a petition from an employee council in the matter referred to in Paragraph 1 has a duty to comply with the petition or to conduct fact-finding proceedings within two weeks. If the accusations are confirmed in the course of the fact-finding proceedings, the parent agency is obligated to comply with the petition within seven days.

46.4. In the event of a difference of opinions regarding the results of the fact-finding proceedings, the employee council may lodge a protest which will be reviewed as provided by Article 65.

#### Chapter 9. Enterprise Assets

Article 47.1. The parent agency endows the enterprise with the means necessary to conduct the activities set forth in the legal act establishing it.

47.2. An enterprise managing the assets allocated to it or purchased, which are segments of all-people's property, ensures the protection of these assets.

47.3. A state enterprise exercises all rights with regard to all-people's property which remains at its disposal, with the exclusion of the rights reserved by statutory regulations, except as provided by Paragraphs 4 and 5.

47.4. A state enterprise may sell fixed assets at a public auction in the exercise of the rights conferred on it in keeping with Paragraph 3 with regard to all-people's assets allocated to it when it was created or purchased in the course of operations.

47.5. The Council of Ministers will set forth by a decree guidelines for organizing an auction and conditions under which it is permissible not to hold an auction.

Article 48. A state enterprise acts in transactions on its behalf and on its own account.

Article 49. A parent agency cannot deprive a state enterprise of the components of assets allocated to it or purchased by the enterprise.

Article 50.1. A state enterprise is responsible for its obligations.

50.2. A state enterprise is not responsible for the obligations of the state treasury or those of other corporate persons.

50.3. The state treasury is not responsible for the obligations of a state enterprise.

Article 51. In the event an enterprise is liquidated, the parent agency determines the appropriation of its assets.

#### Chapter 10. Representation of an Enterprise

Article 52.1. The director is entitled to take legal actions independently in the name of a state enterprise. Deputy directors and representatives of the enterprise act within the confines of their [delegated] authority.

52.2. If legal actions taken by the individuals referred to in Paragraph 1 include the administration of law [as published; "assets" is called for] the value of which exceeds 50 million zlotys, or if these actions may cause the creation of an obligation by the enterprise to render services worth more than 500,000 zlotys, joint actions by at least two individuals are called for.

Article 53.1. Representatives are appointed and recalled by the enterprise director.

53.2. Conferring the powers of representatives will be done in writing; otherwise, it is not valid.

53.3. Conferring and rescinding powers will be disclosed in the register of state enterprises. This does not apply to powers to conduct specific activities or the nomination of lawsuit representatives.

#### Chapter 11. Enterprise Operations

Article 54.1. A state enterprise operates on the basis of its own plan. The compliance of the enterprise plan with the goals of the national socioeconomic plan is ensured by means of using the laws referred to in Article 59 and the provisions of Article 62.

54.2. A multiyear enterprise plan is adopted by a general meeting of the employees of the enterprise; an annual plan is adopted by the employee council of an enterprise at the request of the director. An enterprise plan should take into account opportunities and conditions for the operation of the enterprise and interests of the work force.

Article 55. An enterprise operates on the principles of a rational economy, self-financing, and economic cost accounting.

Article 56.1. An enterprise keeps honest books and draws up a balance sheet based on them.

56.2. The balance sheet of an enterprise is subject to verification by the state control organs along the guidelines set forth in specific regulations.

Article 57.1. A state enterprise may embark on operations which are not envisaged in the act on its creation



57.2. The parent agency may obligate an enterprise to curtail new operations if taking them up brings about the abandonment or substantial restrictions of operations envisaged in the act creating the enterprise.

57.3. Embarking on new operations must be entered in the register of state enterprises.

Article 58.1. The director of an enterprise has a duty to notify in writing the employee council of an enterprise, the financing bank, and the parent agency if the enterprise is conducting economic operations at a loss or does not pay dividends.

58.2. In the event referred to in Paragraph 1, the parent agency will nominate a commission to review and evaluate the economic standing of an enterprise and draw conclusions at the request of the employee council of the enterprise or on its own initiative.

Article 59.1. Separate laws set forth the binding guidelines for enterprises in the area of

- 1) Planning and statistical reporting
- 2) Financing and taxation
- 3) The creation and use of funds
- 4) Setting prices

59.2. The powers and obligations of enterprises also result from provisions of laws other than those referred to in Paragraph 1.

## Chapter 12. Oversight of State Enterprises

Article 60.1. The parent agency monitors and evaluates the operation of an enterprise and the performance of its director.

60.2. The parent agency has the right of sovereign interference in the affairs of an enterprise in cases envisaged by statutory regulations.

Article 61. An act on setting up an enterprise may provide for the opportunity to transfer the oversight powers of the parent agency to an oversight council set up by this agency.

Article 62.1. The parent agency has a right to impose on an enterprise the duty of including a task in its plan, or to assign a task to an enterprise in addition to its plan, if this is necessitated by the needs of the defense of the country, or in the event of a natural disaster, or with a view to meeting international obligations.

62.2. In cases referred to in Paragraph 1, the parent agency ensures for the enterprise the means necessary for the enterprise to accomplish the task assigned to it.

62.3. The accomplishment of the task proceeds on the basis of a contract signed between the enterprise and the organizational unit indicated in the process of assigning the task.

Article 63. In the event a parent agency determines that the decision of a director contravenes the law, it suspends the execution of the decision and obligates the director to modify or cancel it.

Article 64.1. A parent agency has a right to suspend the performance of the duties of an enterprise director for a period of no more than six months if he allows a glaring violation of law to occur or if the further performance of his duties endangers the fundamental interests of the enterprise.

64.2. In the event of suspending the performance of the duties of a director, the parent agency appoints a temporary enterprise manager.

64.3. The employee council and the enterprise director may lodge protests regarding the decisions referred to in Paragraphs 1 and 2 which are to be reviewed as provided by Article 65.

64.4. The provision of Article 42, Paragraph 3 applies accordingly.

Article 65.1. The director of an enterprise and the employee council have a right to lodge protests regarding the decisions concerning the enterprise made by an agency overseeing it.

65.2. The protest together with its substantiation is lodged with the agency making the decision, within seven days of the date it is communicated. The lodging of a protest suspends the execution of the decision.

65.3. In case the agency with which the protest has been lodged stands by its decision, the enterprise director and the employee council are entitled to take the case to court within seven days. The court schedules a hearing within 14 days.

Article 66.1. If an enterprise sustains losses due to the execution of a decision of an overseeing agency, it is entitled to demand damages from this agency.

66.2. Disputes deriving from the provision of Paragraph 1 are resolved by courts.

66.3. The demand for damages may be made by the director or the employee council of an enterprise.

## Chapter 13. Curative Proceedings

Article 67. If an enterprise fails to pay dividends curative proceedings may be initiated with regard to it.

Article 68.1. A parent agency orders the beginning of curative proceedings in agreement with the minister of finance and upon consultation with the employee council. No protest may be lodged against this decision.

68.2. The beginning and the completion of curative proceedings are to be entered in the register of state enterprises.

68.3. Curative proceedings are introduced for a definite period of time. This period may be extended if needed.

Article 69.1. When ordering curative proceedings, the parent agency sets up a curative commission in the enterprise.

69.2. The following belong to the curative commission: two representatives of the employee council of the enterprise, two representatives of the minister of finance, one representative of the banks giving credit to the enterprise, and two representatives of the parent agency. The chairman of the commission is appointed by the parent agency.

69.3. The parent organ will recall a member of the curative commission at the request of the unit of which this member is a representative.

69.4. The operation of the curative commission comes to an end after the curative proceedings are completed and the parent agency is given a final report on the course and results of the proceedings.

Article 70.1. The meetings of a curative commission are convened by its chairman on his own initiative, at the request of the parent agency, the minister of finance, or the employee council of an enterprise.

70.2. Procedures for the operation of a curative commission are determined by regulations adopted by the commission and confirmed by the parent agency.

70.3. Guidelines for remunerations for the members of a curative commission are set by the minister of finance.

Article 71. As soon as the entry referred to in Article 68, Paragraph 2 is made:

1) The decisionmaking powers of the employee council are transferred to the curative commission, with the exception of the power to delegate and request the recall of commission members.

2) The decisionmaking resolutions of a general meeting of employees (delegates) become binding upon their confirmation by the curative commission.

Article 72.1. A curative commission immediately recalls or suspends the director of a state enterprise and appoints a temporary enterprise manager for the duration of curative proceedings.

72.2. The curative commission adopts a program for curing the enterprise developed with the participation of the temporary enterprise manager.

72.3. The temporary enterprise manager implements the program for curing the enterprise under the supervision of the curative commission.

Article 73.1. If the enterprise pays current mandatory dividends and those in arrears, the parent agency will issue an order on completing curative proceedings, by agreement with the minister of finance.

73.2. By agreement with the minister of finance, the parent agency may issue an order on completing curative proceedings if the enterprise has paid current mandatory dividends, and the condition of the enterprise gives hope that dividends in arrears will be paid.

Article 74.1. If a curative commission finds that the draft program submitted or the further implementation of the program give no hope of curing the enterprise, it may request that the enterprise be liquidated.

74.2. If an enterprise fails to pay current dividends and those in arrears immediately after curative proceedings are terminated, the parent agency will place it in liquidation by agreement with the minister of finance.

Article 75. The costs of curative proceedings will be borne by a state enterprise.

Article 76. In cases when a local organ of state administration is the parent agency, the powers of the minister of finance set forth in the present law are exercised by the director of the treasury chamber which has jurisdiction.

#### **Law Governing Breakup of Monopolies Published**

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No 14, Item 88, 13 Mar 90 pp 170-174

[Law No. 88 dated 24 February 1990 counteracting monopolistic practices]

[Text] To promote the growth of competition and to protect economic entities exposed to the injurious effect of monopolistic practices as well as to protect the interests of consumers, the following is hereby promulgated:

#### **Chapter 1. General Provisions**

Article 1. This Decree regulates the principles and procedure for counteracting the monopolistic practices of economic entities and their associations which produce consequences on the territory of the Polish Republic, and it also specifies the agencies competent in these matters.

Article 2. Whenever this Decree refers to:

1) Economic entities, this is construed to mean individuals, legal entities, and organizational entities lacking legal entity, which engage in economic activities.

2) Associations, this is construed to mean chambers, unions, and other organizations associating economic entities.

3) Agreements, this is construed to mean agreements conflicting with this Decree, namely:

a) Agreements concluded between economic entities or certain provisions of these agreements.

b) Adjustments, adopted in any form, between two or more economic entities or their associations.

c) Resolutions or other acts of associations of economic entities.

4) Prices this is construed to also mean retail profit margins, commissions, and price surcharges.

5) Merchandise, this is construed to mean material objects, all forms of energy, services, construction facilities and operations, and market securities and other property rights.

6) Monopoly position, this is construed to mean a position of an economic entity in which that entity meets with no competition on the domestic or local market.

7) Dominant position, this is construed to mean a position of an economic entity in which that entity meets with no significant competition on the domestic or local market; it is assumed that the entity's position is dominant if its share in that market exceeds 30 percent.

Article 3.1. This Decree does not infringe upon the the exclusive rights ensuing from patent law, trademark and logo laws, author's copyright law, and agreements concluded between employees and trade unions, on the one hand, and employers, on the other, with the object of protecting employee rights.

3.2. This Decree applies to licensing agreements and other acts of implementing the exclusive rights referred to in Paragraph 1.

## Chapter 2. Monopolistic Practices

Article 4.1. Monopolistic practices are practices that consist in:

1) The imposition of onerous contract terms yielding unjustified advantages to the economic entity imposing these terms.

2) Making the conclusion of a contract dependent on the acceptance or performance by the other party of a service unrelated to the subject matter of the contract—a service which the other party would not accept or perform had it had an assured possibility of a choice.

3) Acquisition of shares or stock in joint-stock companies or of the property of economic entities, if such acquisition results in a major weakening of the competition.

4) Combining in one person the posts of the director, member of the board, member of the supervising council, or member of the auditing commission in competing economic entities of which at least one controls more than 10 percent of a market.

4.2. Monopolistic practices also include agreements consisting in:

1) Direct or indirect fixing of prices and of the principles for shaping them between competitors in relations with third parties.

2) Division of the market by territorial, assortment-of-merchandise, or organizational criteria.

3) Fixing or curtailment of the volume of output, sales, or procurements of merchandise.

4) Curtailment of access to the market for economic entities not included in the agreement, or their elimination from the market.

5) Fixing by competitors of the terms of contracts concluded with third parties.

Article 5. Monopolistic practices also are considered to include an entity's abusing of its dominant position in the market, and in particular:

1) Counteracting the rise of conditions promoting the rise or growth of competition.

2) Division of the market according to territorial, assortment-of-merchandise, or organizational criteria.

3) Sales of merchandise in a manner causing certain economic or other entities to be more privileged than others.

4) Refusal to sell or procure merchandise with the object of discriminating against certain economic entities in the absence of alternative sources of supply or marketing.

5) Dishonest manipulation of prices, including resale prices, and below-cost sales, with the object of eliminating competitors.

Article 6. The application of the practices defined in Articles 4 and 5 is prohibited unless they are indispensable to the conduct of economic activity and do not cause a significant curtailment of competition.

Article 7.1. Economic entities occupying a monopoly position also are forbidden to:

1) Unjustifiably curtail output, sales, or procurements of merchandise if, in particular, this results in price increases.

2) Suspend sales of merchandise and thus lead to price increases.

3) Impose exorbitant prices.

7.2. The prohibitions defined in Paragraph 1 also apply to the economic entities occupying a dominant position if their share in the market and the practices they employ result in consequences similar to the consequences of the conduct of economic entities with monopoly positions.

Article 8.1. In the event the monopolistic practices enumerated in Articles 4, 5, and 7 are found to exist, the Antimonopoly Office issues a decision ordering the abandonment of such practices and defines the terms of such abandonment.

8.2. Contracts violating Articles 4, 5, and 7 are entirely or partially invalid.

8.3. If the application of the monopolist practices referred to in Paragraph 1 has resulted in price increases, the Antimonopoly Office may issue a decision ordering price reductions. In that decision, for the period during which the increased price applies, the Antimonopoly Office may also specify the actual and additional refunds; the provisions of Article 20 of the Decree of 26 February 1982 on Prices (Dz.U., No. 27, Item 195, 1988) apply correspondingly.

Article 9.1. The Antimonopoly Office may issue a decision prohibiting the implementation of an agreement which:

- 1) Introduces specialization by assortment of the production or sale of merchandise, or
- 2) Provides for joint sales or joint acquisition of merchandise, if such an agreement is aimed against the interests of other economic entities or of consumers.

9.2. The Antimonopoly Office shall issue a decision prohibiting the implementation of the agreement defined in Paragraph 1 if said agreement results in a significant curtailment of competition or of the conditions for its rise on a given market, and if it does not yield economic advantages consisting in particular in:

- 1) A marked reduction in the cost of production or sales, or
- 2) Improvements in the quality of merchandise.

Article 10.1. Decisions of the Antimonopoly Office issued on the basis of Article 8, Paragraphs 1 and 3, and Article 9, may be appealed to the Voivodship Court in Warsaw—Antimonopoly Court, within two weeks from the date the decision is delivered.

10.2. Proceedings in cases of appeals against decisions of the Antimonopoly Office follow the provisions of the Code of Civil Proceedings concerning proceedings in economic cases.

10.3. The Antimonopoly Office may endow its decisions with the rigor of immediate applicability.

### **Chapter 3. Influencing the Formation of the Organizational Structures of Economic Entities**

Article 11.1. Plans to combine and restructure economic entities are subject to being reported to the Antimonopoly Office. Plans to establish an economic entity also are subject to such reporting in the event that said entity may gain a dominant position on the market or one of the parties establishing said entity already has such a position. The reporting is done by the bodies which take steps to combine, restructure, or establish economic entities.

11.2. Within two months from the day these plans are reported the Antimonopoly Office may issue a decision

prohibiting the merger, restructuring, or establishment of an economic entity if such merger, restructuring, or establishment results in an entity that gains a dominant position on the market.

11.3. The merger, restructuring, or establishment of economic entities may proceed unhindered if the Antimonopoly Office fails to issue within the period specified in Paragraph 2 a decision prohibiting said merger, restructuring, or establishment.

11.4. The provisions of Paragraphs 1-3 do not apply to economic entities constituted by individuals.

11.5. A registration court acting on the basis of separate regulations shall refuse entering an economic entity in its registry if the Antimonopoly Office issues, within the period specified in Paragraph 2, a decision prohibiting the merger, restructuring, or establishment of that entity; this provision does not apply if the economic entity declares that the Antimonopoly Office has notified it, within the period specified in Paragraph 2, that it has no reservations about its intent of merger, restructuring, or establishment.

11.6. The Council of Ministers defines, by means of an ordinance, the terms which should be met in the reports of economic entities on their plans for mergers, restructuring, or establishment of new entities.

Article 12.1. State enterprises, cooperatives, and joint-stock companies which have a dominant position on the market may be subject to breakup or dissolution if they regularly restrict competition or the conditions for its rise.

12.2. In the event it is found that economic entities are affected by the requirements of Paragraph 1, the Antimonopoly Office may issue a decision ordering the breakup of an enterprise or a cooperative, or the dissolution of a joint-stock company, on specifying the terms and deadline for said breakup or dissolution.

12.3. Implementing the decision of the Antimonopoly Office is a duty of the bodies of the state enterprise or the cooperative, or of the officers of the joint-stock company, and it takes place on adhering correspondingly to the provisions defining the procedure for the breakup or dissolution of a given entity.

12.4. In the event it is found that an economic entity has a dominant position on the market, the Antimonopoly Office may issue a decision ordering the curtailment of that entity's operations, on defining the terms and deadline for that curtailment.

12.5. The provisions of Paragraph 1 do not preclude the possibility of the breakup and dissolution of the economic entities regulated by separate decrees.

Article 13. Decisions of the Antimonopoly Office issued pursuant to Article 11, Paragraph 2, and Article 12.



Paragraphs 2 and 4, may be appealed to the Antimonopoly Court. The provisions of Article 10, Paragraphs 2 and 3, apply correspondingly.

#### **Chapter 4. Responsibility for the Employment of Monopolistic Practices**

Article 14.1. In the decisions referred to in Article 10, Paragraph 1, the Antimonopoly Office may impose a monetary fine, payable to the State Budget. This fine is not imposed in the event that the Antimonopoly Office issues a decision fixing the size of the actual and additional price refunds referred to in Article 8, Paragraph 3.

14.2. The monetary fine referred to in Paragraph 1 amounts to up of to 15 percent of the income of the fined economic entity for the preceding fiscal year. The fine is reckoned after deducting the turnover tax paid from the income of the economic entity.

14.3. The monetary fine referred to in Paragraph 1 is payable from income after taxes or from other form of surplus of income over expenditures minus taxes.

14.4. The monetary fine referred to in Paragraphs 1-3 may not be imposed if a year has passed since the cessation of monopolistic practices.

Article 15.1. If an economic entity fails to implement the decisions referred to in Article 8, Paragraphs 1 and 3, Article 9, and Article 11, Paragraph 2, or if it fails to implement a court ruling altering that decision, it is obligated to pay a penalty of 15 percent of its highest monthly income during a fiscal year minus the turnover tax for every additional month during which it fails to implement the decision or the ruling. A decision in this case is issued by the Antimonopoly Office, with the proviso that it cannot be issued if three years have elapsed from the date the decision referred to in the previous sentence had been issued.

15.2. In the event of failure to implement the decisions referred to in Article 12, Paragraphs 2 and 4, or to implement a court ruling altering these decisions, the fine amounts to from 1 to 10 percent, and the provisions of Paragraph 1 apply correspondingly.

15.3. The fines referred to in Paragraphs 1 and 2 are subject to payment to the State Budget.

15.4. The provisions of Article 10 and Article 14, Paragraph 3, apply correspondingly.

Article 16.1. In the event that the person managing an economic entity fails to implement the decisions issued on the basis of this Decree as well as court rulings, the Antimonopoly Office may issue a decision imposing on that person a monetary fine not exceeding his or her six months' emoluments.

16.2. The provision of Paragraph 1 does not apply if the duties of the manager of the economic entity are performed by a person who engages in economic activity on his or her own behalf.

16.3. The provisions of Article 10 apply correspondingly.

#### **Chapter 5. The Antimonopoly Agency**

Article 17.1. The Antimonopoly Office is established as a central agency of state administration charged with counteracting monopolistic practices; it is subject to the Council of Ministers.

17.2. The Antimonopoly Office is headed by a Chairman who is appointed and recalled by the Chairman of the Council of Ministers.

17.3. The vice chairman of the Antimonopoly Office is appointed and recalled on the recommendation of the Chairman of the Antimonopoly Office by the Chairman of the Council of Ministers.

17.4. The organizational structure of the Antimonopoly Office is defined in the statute conferred by the Council of Ministers.

Article 18.1. The Chairman of the Antimonopoly Office may establish branches of the Office and specify their locations and territorial and material competences.

18.2. Branches of the Antimonopoly Office are headed by directors who are appointed and recalled by the Chairman of the Antimonopoly Office.

18.3. Vice directors of branches of the Antimonopoly Office are appointed and recalled by the Chairman of the Antimonopoly Office on the recommendation of the directors of these branches.

Article 19.1. The scope of activities of the Antimonopoly Office includes:

1) Inspecting the adherence by economic entities to the Law on Counteracting Monopolistic Practices.

2) Investigating the formation of prices in the presence of curtailment of competition.

3) Issuing, in cases envisaged in this Decree, decisions concerning the counteracting of monopolistic practices and the shaping of the organizational structures of economic entities, as well as issuing decisions defining the responsibility of these entities for the employment of those practices.

4) Keeping a record of the economic entities which hold monopoly positions on the domestic market.

5) Conducting analyses of the concentration of the economy and presenting to interested entities recommendations for measures to balance the market.

6) Preparing or assessing draft legal acts concerning monopolistic practices, growth of competition, or conditions for the rise of competition.

7) Preparing government drafts of policies to promote competition.

8) Performing other duties envisaged in this Decree or in separate decrees.

19.2. The decisions referred to in Paragraph 1, Point 3), are signed by the Chairman of the Antimonopoly Office or by his authorized representative.

Article 20.1. Economic entities are dutybound, when so demanded by the Antimonopoly Office conducting an audit, to facilitate said audit.

20.2. The purpose of the audit referred to in Article 19, Paragraph 1, Point 1), is to determine whether the inspected economic entity adheres to the Law on Counteracting Monopolistic Practices and, in the event it is found to violate this law and decisions and rulings have been issued, to verify whether these decisions and rulings were implemented.

20.3. Authorized auditors from the Antimonopoly Office have the right:

- 1) Of access to all the premises of the audited economic entity.
- 2) To scrutinize the records of the inspected entity and demand copies of and extracts from these records.
- 3) To demand clarification, also in writing, of employees of the audited entity.
- 4) To gather data and information on the activities of the audited entity also from other organizational units without first having to obtain additional authorization.
- 5) To attend sessions of the collegial bodies of the audited entity.
- 6) To safeguard documents and other evidence.
- 7) To avail themselves of expert opinions and consultations.

20.4. The information obtained in the course of audits by employees of the Antimonopoly Office and by the persons authorized by that Office is to be kept confidential.

Article 21.1. Administrative proceedings in cases specified in this Decree are instituted ex officio or on the recommendation of an authorized organization.

21.2. The following are authorized to demand instituting the proceedings:

- 1) The economic entities whose interests were or may be harmed by a monopolistic practice, and the associations of such entities.
- 2) State and public inspection bodies.
- 3) Social organizations whose statutory duties include protecting the interests of consumers.

21.3. The demand to institute proceedings is presented in writing together with a rationale.

#### Chapter 6. Special, Provisional, and Final Regulations

Article 22.1. The provision by an economic entity of data or explanations at a trial held against it abroad on the grounds of steps taken to restrict competition may be prohibited by the Ministry of Foreign Economic Cooperation.

22.2. The economic entity notifies the Minister of Foreign Economic Cooperation about the trial referred to in Paragraph 1 if in the course of that trial it is required to provide data or explanations.

22.3. The Minister of Foreign Economic Cooperation issues the prohibition referred to in Paragraph 1 if the trial held abroad results in a ruling or a decision causing negative consequences to the Polish economy or to Polish economic entities engaging in foreign trade or to economic activities conducted entirely or partially on the territory of the Polish Republic.

22.4. The prohibition referred to in Paragraph 1 may:

- 1) Be addressed to particular economic entities or to a group or association of these entities.
- 2) Refer to a specified court trial abroad, or to various trials of a given kind.
- 3) Comprise particular data and explanations or their kinds.

22.5. The provisions of Paragraphs 1-4 also apply to data and explanations provided by economic entities to Polish agencies of the administration of justice as part of legal assistance provided on the request of agencies of foreign countries on the basis of international agreements.

Article 23. In the event that an economic entity, in cases specified in this agreement, submits an appeal against a decision of the Antimonopoly Office to the Antimonopoly Court, the appellant is not entitled to the legal means for setting aside a decision under the Code of Administrative Proceedings, and in particular the legal means concerning instituting a trial de novo or waiving, amending, or invalidating the decision.

Article 24. Article 1 of the Decree of 25 February 1958 on State Trade Inspection (Dz.U., No. 26, Item 206, 1969, and No. 16, Item 91, 1975) is complemented with the following Point 4):

"4) Monitoring of the adherence to the Law on Counteracting Monopolistic Practices by the economic entities engaging in commercial transactions."

Article 25. The following amendments are incorporated in the Code of Civil Proceedings:

1) In Section IVa, Title VII, of Book I of Part I, following the expression "Proceedings in Economic Cases," the following expression is inserted: "Chapter I. General Provisions."

2) In Article 479/1/, Paragraph 2, Point 3), the expression "in the national economy" are deleted.

3) In Article 479/3/, Paragraph 1, following the expression "district ones" the expression "or the Antimonopoly Court" is inserted.

4) Following Article 479/27/, Chapter 2, running as follows, is inserted.

"Chapter 2. Proceedings in cases concerning the counteracting of monopolistic practices.

"Article 479/28/. Paragraph 1. Decisions of the Antimonopoly Office or its branch may be appealed to the Voivodship Court in Warsaw-Antimonopoly Court within two weeks from the date these decisions are delivered.

"Paragraph 2. The Court shall refuse to consider an appeal submitted after the expiration of the above period.

"Article 479/29/. Paragraph 1. The Antimonopoly Office transmits immediately the appeal together with the dossier on the case to the Court.

"Paragraph 2. If the Antimonopoly Office considers an appeal to be warranted, it may, without transferring the dossier to the Court, rescind or amend its decision entirely or partially, upon immediately notifying the appellant of its new decision, which also may be appealed.

"Article 479/30/. An appeal against a decision of the Antimonopoly Office should satisfy the requirements for a written statement presented for court action, and it should identify the appealed decision, cite the accusations and provide their concise background, specify evidence, and contain a request to waive or amend the decision entirely or partially.

"Article 479/31/. Paragraph 1. In cases concerning the counteracting of monopolistic practices the parties involved are the Antimonopoly Office and the concerned party.

"Paragraph 2. The concerned party is the one whose rights or obligations depend on the outcome of the trial. If the concerned party is not summoned to participate in the proceedings, the court shall summon it on the request of another party or ex officio.

"Article 479/32/. An authorized representative of the Antimonopoly Office may be an employee of that Office.

"Article 479/33/. In the event that a decision of the Antimonopoly Office is appealed, the court may, on the request of the plaintiff, suspend the enforcement of that decision until the case is resolved. The court may issue its ruling at a closed sitting.

"Article 479/34/. Paragraph 1. The court rejects an appeal against a decision of the Antimonopoly Office if there exist no foundations for considering it.

"Paragraph 2. In the event that an appeal is considered, the court either waives or amends entirely and partially the decision appealed against, and it also rules on the nature of the case.

"Article 479/35/. Rulings of the Antimonopoly Court have legal validity."

Article 26. In the Decree of 29 December 1982 on the Office of the Minister of Finance and on Treasury Offices and Chambers (Dz.U., No. 45, Item 289, 1982; No. 12, Item 50, 1985; No. 3, Item 18, and No. 33, Item 180, 1987; and No. 16, Item 112 and No. 19, Item 132, 1988) the following changes are introduced:

1) Point 11) of Article 2 is deleted.

2) Article 5a is deleted.

Article 27. In the Decree of 20 June 1985 on the Law on the System of Common Courts (Dz.U., No. 31, Item 137, 1985; and No. 4, Item 24, No. 33, Item 175, and No. 73, Item 436, 1989) the following Article 19/2/ is inserted after Article 19/1/:

"Article 19/2/. The Minister of Justice shall establish by means of an executive order a special organizational unit for antimonopoly cases (the Antimonopoly Court) at the Voivodship Court in Warsaw."

Article 28. In the Decree of 17 May 1989 on the Market Development and Trade Demonopolization Fund (Dz.U., No. 30, Item 159), Point 4) of Paragraph 1 of Article 3 is deleted.

Article 29. In the Decree of 24 May 1989 on the Judicial Examination of Economic Cases (Dz.U., No. 33, Item 175, and No. 41, Item 229), Point 5) of Paragraph 2 of Article 2 is deleted.

Article 30.1. Cases whose consideration by the Minister of Finance is not completed on the effective date of this Decree are transferred for further consideration to the Antimonopoly Office.

30.2. Complaints regarding decisions of the Minister of Finance, submitted prior to the effective date of this Decree, are considered by the Superior Administrative Court pursuant to the current regulations. In the event of waiving said decisions the Superior Administrative Court transfers the matter for consideration to the Antimonopoly Office.

30.3. Revival of proceedings or the rescindment, amending, or invalidation of a decision issued by the Minister of Finance prior to the effective date of this Decree takes place in conformity with current regulations, with the proviso that the Antimonopoly Office is competent to consider the case.

Article 31. Whenever separate regulations refer to an antimonopoly agency, they are understood to refer to the Antimonopoly Office.

Article 32. The Decree of 28 January 1987 on Counteracting Monopolistic Practices in the National Economy (Dz.U., No. 3, Item 18, 1987; and No. 10, Item 57, No. 30, Item 159, and No. 35, Item 192, 1989) is hereby voided.

Article 33. This Decree takes effect 30 days after its publication.

President of the Polish Republic: W. Jaruzelski

### Order Lists State Enterprises of Power Industry and Lignite Association

90EP0606A Warsaw DZIENNIK USTAW in Polish No 22, Item 129, 7 Apr 90 pp 290-291

[Executive Order No. 129 of the Council of Ministers dated 12 March 1990 governing the list of state enterprises and other state organizational units incorporated in the Power Industry and Lignite Association]

[Text] Pursuant to Article 1, Paragraphs 3 and 4, of the Decree of 23 October 1987 on Establishing the Power Industry and Lignite Association (Dz.U., No. 33, Item 184), the following is hereby ordered:

Paragraph 1. A list of state enterprises and other state organizational units subject to grouping within the Power Industry and Lignite Association is provided in the Supplement below.

Paragraph 2. The Executive Order of 16 March 1989 of the Council of Ministers Concerning a List of State Enterprises and Other State Organizational Units Subject to Grouping Within the Power Industry and Lignite Association (Dz.U., No. 17, Item 95) is hereby voided.

Paragraph 3. This Executive Order takes effect on the day of its publication.

Chairman of the Council of Ministers: T. Mazowiecki

### Supplement to the Executive Order of 12 March 1990 of the Council of Ministers (Item 129)

#### List of State Enterprises and Other State Organizational Units Subject to Grouping Within the Power Industry and Lignite Association

1.	Warszawa-Miasto Power Plant in Warsaw
2.	Warszawa-Teren Power Plant in Warsaw
3.	Lodz-Miasto Power Plant in Lodz
4.	Lodz-Teren Power Plant in Lodz
5.	Plock Power Plant in Plock
6.	Bialystok Power Plant in Bialystok
7.	Belchatow Electric Power Plant in Rogowice
8.	Ostroleka Combined Electric Power Plants in Ostroleka
9.	Combined Thermoelectric Power Plants in Lodz
10.	Warszawa Combined Thermoelectric Power Plants in Warsaw

11.	Wroclaw Power Plant in Wroclaw
12.	Walbrzych Power Plant in Walbrzych
13.	Jelenia Gora Power Plant in Jelenia Gora
14.	Legnica Power Plant in Legnica
15.	Poznan Power Plant in Poznan
16.	Gorzow Power Plant in Gorzow Wielkopolski
17.	Szczecin Power Plant in Szczecin
18.	Kalisz Power Plant in Kalisz
19.	Zielona Gora Power Plant in Zielona Gora
20.	Patnow-Adamow-Konin Combined Electric Power Plants in Konin
21.	Dolna Odra Combined Electric Power Plants in Nowy Czarnow
22.	Turow Electric Power Plant in Bogatynia
23.	Wroclaw Combined Thermoelectric Power Plants in Wroclaw
24.	Poznan Combined Thermoelectric Power Plants in Poznan
25.	Gdansk Power Plant in Gdansk
26.	Slupsk Power Plant in Slupsk
27.	Koszalin Power Plant in Koszalin
28.	Olsztyn Power Plant in Olsztyn
29.	Bydgoszcz Power Plant in Bydgoszcz
30.	Torun Power Plant in Torun
31.	Elblag Power Plant in Elblag
32.	Zarnowiec Nuclear Electric Power Plant under construction in Kartoszyn
33.	Gdansk Combined Thermoelectric Power Plants in Gdansk
34.	Bydgoszcz Combined Thermoelectric Power Plants in Bydgoszcz
35.	Zarnowiec Peak-Load Electric Power Plant in Nadole
36.	Lublin Power Plant in Lublin
37.	Skarzysko-Kamienna Power Plant in Skarzysko-Kamienna
38.	Rzeszow Power Plant in Rzeszow
39.	Zamosc Power Plant in Zamosc
40.	Kozienice Electric Power Plant in Swierze Gorne
41.	T Kosciuszko Electric Power Plant in Polanec
42.	Stalowa Wola Electric Power Plant in Stalowa Wola
43.	Bedzin Power Plant in Bedzin
44.	Gliwice Power Plant in Gliwice
45.	Czestochowa Power Plant in Czestochowa
46.	Krakow Power Plant in Krakow
47.	Bielsko-Biala Power Plant in Bielsko-Biala
48.	Opole Power Plant in Opole
49.	Tarnow Power Plant in Tarnow
50.	Rybnik Electric Power Plant in Wielopole
51.	Lagisza Electric Power Plant in Bedzin
52.	Siersza Electric Power Plant in Trzebinia
53.	Opole Electric Power Plant under construction in Brzez



54.	Laziska Electric Power Plant in Laziska Gorne
55.	Jaworzno III Electric Power Plant in Jaworzno
56.	Krakow-Leg Thermoelectric Power Plant in Krakow
57.	Bielsko-Biala Combined Thermoelectric Power Plants in Bielsko-Biala
58.	Katowice Combined Thermoelectric Power Plants in Katowice
59.	Porabka-Zar Combined Hydroelectric Power Plants in Miedzybrodzie
60.	Skawina Electric Power Plant in Skawina
61.	Blachownia Electric Power Plant in Blachownia
62.	Poltegor Central Open-Strip Mining Research and Design Office in Wroclaw
63.	Energopomiar Power Industry Mensuration and Research Center in Gliwice
64.	IASE Power Industry Automation Science and Production Center in Wroclaw
65.	Power Industry Institute in Warsaw
66.	Power Systems Automation Institute in Wroclaw
67.	Power Industry Renovation Research and Development Center in Wroclaw
68.	Power Industry Information Center in Warsaw

### Law Marks Liquidation of Anthracite, Lignite Coal Associations

90EP0606B Warsaw DZIENNIK USTAW in Polish  
No 14, 13 Mar 90, Item 89 pp 174-175

[Law No. 89 dated 24 February 1990 liquidating the Anthracite Coal Association and the Power Industry and Lignite Association and governing changes in certain laws]

[Text]

Article 1. The Anthracite Association, established by the Decree of 23 October 1987 on Forming the Anthracite Association (Dz.U., No. 33, Item 183) and the Power Industry and Lignite Association, established by the Decree of 23 October 1987 on Forming the Power Industry and Lignite Association (Dz.U., No. 33, Item 184), hereinafter referred to as "Associations," are placed in receivership on the effective date of this Decree.

Article 2. The obligations and tasks of the liquidator of the Associations are entrusted to the Minister of Industry.

Article 3. Assets of the Association that remain after the liquidation is completed and belong to no other legal entities become the property of the Treasury of State.

Article 4.1. The liquidation of the Associations is governed by the provisions concerning the liquidation of state enterprises, unless this Decree specifies otherwise.

4.2. The Council of Ministers may determine, by means of an executive order, a particular procedure for liquidating the Associations.

Article 5. During the period of liquidation proceedings the Associations and their units continue to operate in the customary manner, unless this Decree specifies otherwise.

Article 6. During the period of liquidation the Minister of Industry may:

1) Entrust the performance of certain liquidating activities to units of the Associations.

2) Curtail the scope of operations of units of the Associations.

3) Appoint and recall any member of the supervising councils of the Associations.

Article 7. In the course of the liquidation proceedings the Minister of Industry excludes discrete organizational units from being grouped within the Associations.

Article 8.1. The Council of Ministers may entrust, by means of an executive order, the implementation of certain tasks and powers of the Associations to central agencies of state administration or other state agencies within the scope of their legal competences, and it also may authorize the performance of these tasks by the organizational units formed by these agencies.

8.2. The Council of Ministers shall define, by means of an executive order, the detailed rules for the financial management of the units referred to in Article 1, as well as the obligations of the economic entities operating in mining and power industry as regards defraying the cost of the performance of tasks by these units.

Article 9.1. The State Council for Mining and the State Council for the Power Industry are abolished.

9.2. In the Decree of 6 May 1956—Mining Law (Dz.U., No. 4, Item 12, 1978; No. 35, Item 186, 1984; No. 33, Item 180, 1987; No. 41, Item 324, 1988; and No. 35, Item 192, 1989) Article 147 is deleted.

9.3. In the Decree of 6 April 1984 on the Power Industry (Dz.U., No. 21, Item 96, 1984; No. 33, Item 180, 1987; No. 19, Item 132, 1988; and No. 35, Item 192, 1989) Article 12 is deleted.

Article 10. As of 30 September 1990 the following decrees become null and void.

1) Decree of 23 October 1987 on Forming the Anthracite Association (Dz.U., No. 33, Item 183).

2) Decree of 23 October 1987 on Forming the Power Industry and Lignite Association (Dz.U., No. 33, Item 184).

Article 11. This Decree takes effect on the day of its publication

President of the Polish Republic: W. Jaruzelski

**Executive Order on Tax Relief for New Economic Activities Published****Executive Order Published**

90EP0690A Warsaw RZECZPOSPOLITA in Polish  
1 Jun 90 p 4

[Executive Order of the Ministry of Finance dated 31 May 1990 governing income and sales tax relief for newly initiated economic activities; also published in DZIENNIK USTAW No. 35, 31 May 1990, Item 203 pp. 476-478]

[Text] "Tax Relief: Benign Climate for Private Enterprise"—under this title we had published in RZECZPOSPOLITA of 23 May an extensive report on the Executive Order of 18 May of the Minister of Finance Concerning Exemptions from Turnover and Income Taxes for Taxpayers Whose Income Originates from Certain Kinds of New Economic Initiatives. Keeping the promise given then, we publish today the complete text of the Executive Order published in DZIENNIK USTAW No. 35 of 31 May 1990—the day on which it also became effective.

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**Executive Order**

On the basis of Article 12, Paragraph 1, Point 1) of the Decree of 16 December 1972 on the Turnover Tax (Dz.U., No. 43, Item 191, 1983; No. 12, Item 50, 1985; No. 3, Item 12, 1989; and No. 74, Item 443, 1989), Article 22, Point 1) of the Decree of 16 December 1972 on the Income Tax (Dz.U., No. 27, Item 147, 1972; and No. 74, Item 443, 1989), and Article 18, Paragraph 3, and Article 38, Points 1), 2), and 4) of the Decree of 19 December 1980 on Tax Liabilities (Dz.U., No. 27, Item 111, 1980; No. 45, Item 289, 1982; No. 52, Item 268, 1984; No. 12, Item 50, 1985; No. 41, Item 325, 1988; No. 4, Item 23, 1989; No. 33, Item 176, 1989; No. 35, Item 192, 1989; and No. 74, Item 443, 1989), the following is hereby ordered:

**Paragraph 1**

1. Individuals and civil-law partnerships of individuals, hereinafter referred to as taxpayers, are exempt, on terms defined in this Executive Order, from turnover and income taxes, hereinafter referred to as taxes, insofar as they derive their incomes from new economic initiatives focusing on:

1) Trade, including wholesale trade, in foodstuffs and agricultural and horticultural items, with the exception of street vendors, produce carriers, and sales of flowers and beverages containing more than 4.5 percent alcohol.

2) Trade, including wholesale trade, in manufactured goods, with the exception of stationary and mobile street vending.

3) Operation of restaurants and food outlets at which beverages containing more than 18 percent alcohol are not sold, hotel establishments, campgrounds, and tourist homes.

4) Generation of energy in hydroelectric or wind-driven power plants.

5) Generation of biogas [methane].

6) Provision of sanitation and veterinary services.

7) Provision of meat-processing services.

8) Services and manufacturing activities—with the exception of transportation, entertainment, and health service—operated to the extent of the employment limits specified in separate regulations concerning the levying of turnover and income taxes in the form of the "Taxpayer Card."

2. The tax exemptions referred to in Subparagraph 1 do not apply to the income tax collected by customs offices.

3. Stationary and mobile street vending are construed as retail trade in merchandise from boxes, suitcases, or baskets, or from an automobile, a horse-drawn vehicle, or other means of transportation used to carry merchandise from one place to another if the taxpayer does not at the same time maintain premises for the regular sale of merchandise.

4. The requirements as to the extent and nature of employment referred to in Subparagraph 1, Point 8), are evaluated according to separate regulations concerning the Taxpayer Card that are binding on the day the new economic initiative is commenced.

**Paragraph 2**

1. Tax exemptions apply to the taxpayers who:

1) Commence one or more of the kinds of new economic initiatives referred to in Paragraph 1, Subparagraph 1, during the period between the effective date of this Executive Order and 31 December 1990.

2) Have not, in the last three years, been engaging in any economic initiative or activity, including activity on commission or franchise basis, with the exception of the operation of hydroelectric or wind-driven power plants and the production of biogas.

3) Do not simultaneously engage in economic activities other than those the tax exemptions apply to on the basis of Paragraph 1, Subparagraph 1; this does not apply to taxpayers operating hydroelectric and wind-driven power plants or producing biogas.

2. The requirement of Paragraph 1, Subparagraph 2, does not apply to the taxpayers:

1) Whose incomes from economic activity are indefinitely exempt from turnover and income taxes by separate regulations.

2) Who engage in new economic initiatives as regards the operation of hydroelectric and wind-driven power plants and the production of biogas.

3. The requirements of Subparagraph 1, Points 2) and 3), must also be met by the taxpayer's spouse; the provisions of Subparagraph 2, Point 1), apply correspondingly.

4. In the event that a new economic initiative is conducted by partners, the requirements of Subparagraph 1, Points 2) and 3), must be met by all partners and their spouses.

5. Relocation of the site of economic activity is no obstacle to tax exemption if the activity is pursued on the new site on the same terms warranting the exemption.

6. In the event of a change in the legal status of the enterprise or plant into that of a civil-law partnership of individuals, or in the event that a new partner joins an existing partnership, the exemption from income and turnover taxes for the remainder of the (five-year, two-year, or one-year) period in question also applies to the new partner, provided that the circumstances referred to in Subparagraph 1, Points 2) and 3), do not apply.

#### Paragraph 3

1. The tax exemption covers a period of:

1) Five years, if the kinds of economic activity referred to in Paragraph 1, Subparagraph 1, Points 4) and 5) are concerned.

2) Two years, if the kinds of economic activity referred to in Paragraph 1, Subparagraph 1, Points 1), 3), 6), 7), and 8) are concerned.

3) One year, if the kind of economic activity referred to in Paragraph 1, Subparagraph 1, Point 2) is concerned, reckoning from the date on which the taxpayer commences the new economic initiative.

2. Taxpayers who:

1) Commence two or more of the kinds of economic activity referred to in Paragraph 1, Subparagraph 1, Points 1), 3), 6), 7), and 8) are eligible for exemptions during the first two years starting with the date of commencement of the first economic activity.

2) In addition to the economic activities referred to in Paragraph 1, Subparagraph 1, Points 1), 3), 6), 7), and 8) begin to trade in manufactured goods, are eligible for exemptions starting with the date of commencement of the first economic activity, until the expiration of one year from the date of commencement of trade in manufactured goods.

3. The day of commencement of activity is considered to be the day on which turnover, as construed by the turnover tax regulations, commences.

4. In the event of an interruption in economic activity due to illness, maternity leave, summons to military

exercises, natural disaster, or other force majeure, and if that interruption lasts for at least two months, the period of tax exemption is extended to cover the entire duration of the interruption, provided that the taxpayer or a person acting in his behalf notifies the local Treasury office accordingly within seven days from the date the interruption commences and as of the day it ends.

#### Paragraph 4

1. Commencement of economic activity on undeveloped land or in acquired, leased, or otherwise legally acquired premises (building), is not considered as a new economic initiative if that land or premises (building) was used in the last three years for the purpose of engaging in the same manufacturing, service, or trading activity.

2. Economic activity undertaken on undeveloped land or in premises (building) in which the same manufacturing, service-providing, or trading activity had been plied in the last three years by an entity of the socialized sector is no obstacle to classifying it as new economic initiative; this does not apply, however, to the economic activity conducted on the basis of a commission or a franchise agreement if it was conducted by a member of the taxpayer's family.

3. The commencement of economic activity in a workplace acquired from a taxpayer who is retiring with a retirement pension or an annuity by a person who engages in that activity for the first time on his own behalf and who is not a family member of that taxpayer is construed as the commencement of a new economic initiative.

4. Family members referred to in Subparagraphs 2 and 3 are: spouse, blood children and adopted children, stepchildren, foster children, stepfather, stepmother, sons-in-law, and sons.

#### Paragraph 5

1. Tax-exempt taxpayers are dutybound to report their incomes for every tax year covered by the exemption and to pay the attendant fee.

2. Taxpayers other than those who engage in economic activity on terms authorizing them to pay taxes in the form of the Tax Card, are under the obligation of:

1) Keeping a complete record of their incomes and expenditures in accordance with the separate regulations governing the keeping of accounts for tax purposes.

2) Report to their local Treasury offices, on the special forms existing for that purpose, their turnover and incomes during the tax year, not later than by 31 January of the next year.

3. Taxpayers who keep accounts of incomes and expenditures for tax purposes append copies of these accounts to their reports.

**Paragraph 6**

1. The tax exemption is granted on condition that, for the period covered by the exemption and during the two subsequent years, the taxpayer does not permanently cease to engage in the economic activity.

2. The decision to grant the exemption, with the proviso that the taxpayer meet the requirement referred to in Subparagraph 1, is issued by the local Treasury office upon the written application of the taxpayer, submitted before commencing the economic activity. The taxpayer's application should include the declaration that he is meeting the requirements for the exemption, as applying to a given kind of economic activity.

3. For every tax year covered by the exemption the local Treasury office assesses taxes on general principles or corresponding to the fee for the Tax Card, if the taxpayer meets the requirements for that card.

4. The Treasury office defers the collection of the assessed taxes until the expiration of two years reckoning from the end of the period covered by the exemption. If during these two years the taxpayer does not permanently cease engaging in the economic activity, the Treasury office rescinds the decision to assess taxes for the period covered by the exemption.

5. The Treasury office also rescinds the decision to assess taxes on the taxpayer's request in the event that the taxpayer permanently ceases to engage in economic activity owing to illness, natural disaster, or other force majeure rendering it impossible to continue the economic activity.

**Paragraph 7**

1. The taxpayer is dutybound to notify the Treasury office in writing about any forfeiture of the requirements for eligibility to the tax exemption not later than within seven days from the day on which circumstances causing the forfeiture of these requirements arise.

2. A taxpayer who notifies the Treasury office about the forfeiture of the requirements for the exemption within the deadline referred to in Subparagraph 1 forfeits the right that exemption to beginning with the month in which he has forfeited these requirements.

3. A taxpayer who has not met the requirement of promptly notifying the Treasury office about the forfeiture of the requirements for eligibility for the exemption forfeits the right to that exemption commencing with the tax year in which he has forfeited these requirements.

4. A taxpayer who misleads the Treasury office about the requirements for obtaining a tax exemption forfeits the right to that exemption throughout the period of his economic activity.

5. The taxpayer also forfeits the right to the tax exemption in the event it is found that he keeps no accounting of income and expenditures referred to in Paragraph 5,

Subparagraph 2, Point 1), or that he deliberately keeps an inaccurate accounting. In this event the exemption is forfeited for the entire period in question or, if during that period the taxpayer ceases to keep an accounting or the Treasury office finds that he deliberately keeps an inaccurate accounting, the exemption is forfeited for the period starting with the day on which accounting ceases to be kept or with the year since which it is deliberately kept inaccurate.

**Paragraph 8**

1. This will invalidate the provisions of:

1) The Executive Order of the Minister of Finance of 30 April 1984 on Exemptions from Turnover and Income Taxes or from Treasury Fees for Taxpayers Who Drive Their Income from Certain Kinds of New Manufacturing or Service-Providing Initiative (Dz.U., No. 24, Item 122, 1984; and No. 40, Item 234, 1987).

2) The Executive Order of the Minister of Finance of 12 August 1986 Concerning Income-Tax Exemptions for Certain Kinds of Economic Initiative in Alpine and Piedmont Areas (Dz.U., No. 34, Item 171, 1986).

2. The provisions of the executive orders referred to in Subparagraph 1 do apply, however, to taxpayers who commenced their economic initiatives prior to the effective date of this Executive Order.

**Paragraph 9**

This Executive Order takes effect on the day of its publication.

**Explanatory Commentary Offered**

90EP0690B Warsaw RZECZPOSPOLITA in Polish  
1 Jun 90 p 4

[Commentary by K.C. [Krystyna Chrupkova] under rubric: "Explanation"]

[Text] The text of the executive order published above requires some commentary.

Above all, because it is effective as of 31 May 1990, which means that tax exemptions will apply to persons who start economic activity on that date or after that date but not later than by 31 December of this year (Paragraph 2)

But what matters most to grasping the essentials of that order is elucidating the concept of "day of commencement of the activity" (Paragraph 3, Subparagraph 3)

Well, the day of commencement of the activity is, for the purpose of exemption from turnover and income taxes, the day on which turnover (as construed by the turnover-tax regulations) arises. In retail trade that is the day on which merchandise begins to be sold, and in manufacturing and services, that is the day on which merchandise or services begin to be sold



Thus, even those who registered their retail-trade or manufacturing or service activities before 31 May (that is, before the executive order in question became effective) but previously, whatever the reason, incurred no turnover, have now (after 31 May) the right to a tax exemption, if they meet all the requirements of the executive order. This is how Mrs. Jadwiga Kozłowska, vice director of the Tax and Fee Department at the Ministry of Finance, interprets this provision.

Those who desire to avail themselves of the exemption must report their tax obligation before commencing economic activity and submit a request for referring the application for exemption to the proper local Treasury office in the locality where the activity is to be pursued.

In addition to the persons who pursue an economic activity only in the conditions envisaged in the regulations governing the Tax Card (Dz.U., No. 72, 1989)—this concerns Paragraph 1, Subparagraph 1, Point 8), of the Executive Order—all others must start keeping accurate accounts of incomes and expenditures and report them once a year every year.

The executive order makes stationary and mobile street vending ineligible for the tax exemption. If, however, a person operates, e.g., a store for selling merchandise and, e.g., displays the merchandise at a market fair, this does not mean forfeiting the right to the exemption.

If a person engages in an activity covered by the exemption (e.g., sales of parsley) and in another that is not covered (e.g., plastics manufacturing), he is not eligible for the exemption (Paragraph 2, Subparagraph 1, Point 1).

Only the kinds of trading (manufacturing, or services) activity enumerated in Paragraph 1 of the executive order are tax-exempt. And hence activities consisting in middlemanship (these being most often asked about) are not covered by tax exemptions, because they are not mentioned in that provision.

#### **Errata in Previously Published Law on Employment Noted**

90EP0603A Warsaw *DZIENNIK USTAW* in Polish  
No 9, Item 57, 15 Feb 90 p 108

[Announcement No. 57 of the Chairman of the Council of Ministers dated 9 February 1990 correcting mistakes in the law dated 29 December 1989 on employment [see 90EP0307A, EER 90-027, 5 Mar 90]]

[Text] Pursuant to Article 6, Paragraph 1, of the Decree of 30 December 1950 on the publication of *DZIENNIK USTAW RZECZYPOSPOLITEJ POLSKIEJ* and *DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ* 'MONITOR POLSKI' (Dz.U., No. 58, Item 524), the following errata in the Decree of 29 December 1989 on Employment (Dz.U., No. 75, Item 446) are rectified:

1) In Article 5, Paragraph 2, Point 3) should be followed by Point 4), worded as follows.

"4) Initiation of projects intended to bring about full and rational employment."

And the original Point 4) should be renamed Point 5).

2) In Article 18 the word "workplaces" in the first sentence should be amended to "workplace," and the word "other" replaced with "some."

3) In Article 20, Paragraph 1, the word "in detail" should be replaced with "detailed" and the expression "and vocational counseling" should be added at the end.

4) In Article 21, Paragraph 3, the word "quashing" should be followed with the expression "after having worked for a specified period in a given locality."

5) In Article 28, Paragraph 3, the reference should be to Article 31, not to Article 30.

6) In Article 35, Paragraph 1, Point 5), the word "contributions" should be replaced with "disbursements."

Chairman of the Council of Ministers: T. Mazowiecki

#### **Executive Order on Air Pollution Published**

90WN0130A Warsaw *DZIENNIK USTAW* in Polish  
No 15, Item 92, 14 Mar 90 pp 181-184

[Executive Order No. 92 of the Ministry of Environmental Protection, Natural Resources, and Forestry dated 12 February 1990 on air pollution]

[Text] Pursuant to Article 29 of the Decree of 31 January 1980 on the Protection and Shaping of the Environment (Dz.U., No. 3, Item 6, 1980; No. 44, Item 201, 1983; No. 33, Item 180, 1987; and No. 26, Item 139, and No. 35, Item 192, 1989), the following is hereby ordered:

Paragraph 1.1. Permissible concentrations of air pollutants are determined separately for specially protected areas and for remaining areas.

1.2. Specially protected areas comprise spa areas, spa protection areas, national parks, nature preserves, and landscape parks.

Paragraph 2.1. The permissible concentrations of air pollutants for specially protected and remaining areas are defined in Supplement No. 1.

2.2. The permissible concentrations of air pollutants specified in Supplement No. 1 do not apply to areas occupied by organizational units engaging in economic activities causing air pollution.

2.3. The areas referred to in Subparagraph 2 are governed by the regulations prescribing the maximum permissible concentrations and intensities of noxious substances at workplaces.

Paragraph 3.1. A decision defining the permissible kinds and quantities of air pollutants, hereinafter termed "the decision on the permissible emission," is issued for a specified period of time by a voivodship-level local

office of state administration. The organizational unit is dutybound to submit documentation that contains in particular:

- 1) Description of the technologies employed.
- 2) Characteristics of discrete emitters.
- 3) Data on operating time of the organizational unit in the course of a year, separately for each emitter.
- 4) Description of the kinds and quantities of soot and gaseous pollutants in metric tons per year, in kilograms per hour (mean values), in grams per second (maximum values), and in kilograms per output unit for discrete sources of emission and emitters.
- 5) Description of the nature of pollutant-purification facilities and of the effectiveness of their action.
- 6) Description of the circumstances under which pollutants are spewed into the air.
- 7) The existing state of air pollution and the state anticipated as a result of the operations of the organizational unit.
- 8) Description of the occurrence time and extent of maximum concentrations of emitted substances and their quantities.
- 9) Conditions of the propagation of pollutants in the air.
- 10) Plans for measures to reduce the air pollution caused by the operations of the organizational unit.

3.2. The decision on the permissible emission specifies the kinds and quantities of the pollutants permitted to spread in the air, jointly and separately for every emission source and emitter, and the conditions of their spewing into the air.

3.3. The decision on the permissible emission may impose obligations ensuing from the need to prevent air pollution.

3.4. The obligations referred to in Subparagraph 3 may be imposed by a separate decision also after the permissible emission is determined.

Paragraph 4.1. The permissible quantities of such air pollutants as sulfur dioxide, nitrogen dioxide and the soot arising in the process of the combustion of fuels at power plants are defined in Supplement No. 2.

4.2. To adhere to the requirements specified in Paragraph 5, the voivodship-level local office of state administration fixes for the sources of pollutant emission values of permissible emission lower than those given in Supplement No. 2.

Paragraph 5. The permissible emission of air pollutants specified in the decision on permissible emission may not result in excess pollutant concentrations on the specially protected and remaining areas referred to in Paragraph 1.

Paragraph 6.1. Organizational units which spew from a single emitter more than 1,200 kg of sulfur dioxide or 800 kg of soot per hour into the air are dutybound to conduct continuous measurements of the quantities of these substances emitted into the air.

6.2. The organizational units which spew more than 100 kg of sulfur dioxide, or more than 100 kg of soot, per hour into the air are dutybound to conduct twice a year, at times coordinated with the local voivodship-level agency of state administration, measurements of the quantities of these substances spewed into the air.

6.3. The units referred to in Subparagraphs 1 and 2 are dutybound to evaluate at least once every two years the effectiveness of their pollution-control facilities.

6.4. The voivodship-level local office of state administration acts as follows with respect to the measurements conducted by the organizational units:

1) It specifies the kinds of substances subject to the measurements and the specific conditions for the conduct of the measurements.

2) It monitors the accuracy of the measurements and, as the need arises, conducts control measurements on its own.

Paragraph 7. The provisions concerning organizational units apply correspondingly to individuals who engage in economic activity.

Paragraph 8. Whenever this Executive Order refers to a voivodship-level local office of state administration, it is construed to mean an office competent for matters concerning environmental protection in a voivodship.

Paragraph 9. Proceedings initiated or not completed by the effective date of this Executive Order shall be completed in accordance with the provisions of this Executive Order.

Paragraph 10. The Executive Order of the Council of Ministers of 30 September 1980 Concerning the Protection of Atmospheric Air Against Pollution (Dz.U., No. 24, Item 89), is hereby voided.

Paragraph 11. This Executive Order takes effect 14 days after it is published.

Minister for Environmental Protection, Natural Resources, and Forestry: B. Kaminski.

Supplement No. 1 to the Executive Order of the Minister for Environmental Protection, Natural Resources, and Forestry of 12 February 1990 (Item 92)

Permissible Concentrations of Air Pollutants							
No.	Pollutant	Permissible Concentration of Pollutants in Micrograms/cu m					
		Areas			Specially Protected Areas		
		30 Minutes	24 Hours	Mean Annual	30 Minutes	24 Hours	Mean Annual
1	2	3	4	5	6	7	8
1	Acrylonitrile <sup>1</sup>	—	2	0.5	—	2	0.5
2	Acetaldehyde	20	10	2.5	10	5	1.3
3	Methyl alcohol	1,000	500	130	200	100	25
4	Ammonia	400.04	290	51	100	50	13
5	Antimony	50	30	10	20	10	2.5
6	Arsenic <sup>2</sup>	—	0.05	0.01	—	0.05	0.01
7	Asbestos <sup>3</sup> (fibers/cu m)	—	1,000	—	—	1,000	—
8	Azotanes <sup>4</sup>	200	100	25	50	30	10
9	Nitrogen dioxide	500	150	50	150	50	30
10	Benzene	—	10	2.5	—	10	2.5
11	Benzo(a)pyrene (ng/cu m)	—	5	1	—	5	1
12	Chlorine	100	30	4.3	30	10	1.6
13	Vinyl chloride	—	5	1.3	—	3	0.4
14	Chromium <sup>5</sup>	—	2	0.4	—	0.5	0.08
15	Hydrogen cyanide and other cyanides <sup>6</sup>	20	10	2.5	10	5	1.3
16	Perchloroethylene	600	300	70	200	120	30
17	Dichloromethane	400	150	60	100	60	15
18	1, 2-dichloroethane	400	150	60	100	60	15
19	Carbon disulfide	50	20	3.8	15	4.5	0.6
20	Phenol	20	10	2.5	10	3	0.4
21	Fluorine <sup>7</sup>	30	10	1.6	10	3	0.4
22	Formaldehyde	50	20	3.8	20	10	2.5
23	Phthalates	100	50	13	30	10	1.6
24	Cadmium <sup>8</sup>	—	0.22	0.01	—	0.2	0.001
25	Xylene	300	100	16	40	10	1.3
26	Sulfuric acid <sup>9</sup>	200	100	16	100	50	7.9
27	Hydrochloric acid <sup>10</sup>	200	100	20	100	50	10
28	Manganese <sup>11</sup>	—	4	1	—	2	0.5
29	Copper <sup>12</sup>	20	5	0.6	6	2	0.3
30	Nickel <sup>13</sup>	—	100	25	—	100	25
31	Nitrobenzene	50	30	10	20	10	2.5
32	Vinyl acetate	100	—	—	50	—	—
33	Lead <sup>14</sup>	—	1	0.2	—	0.5	0.1
34	Ozone	100	30	—	50	20	—
35	Dust suspension	—	120	50	—	50	40
36	Mercury <sup>15</sup>	—	0.2	0.04	—	0.1	0.02
37	Sulfur dioxide: through 1998	600	200	32	250	75	11
	Sulfur dioxide: starting in 1999	440	150	32	150	75	11
38	Hydrogen sulfide	30	5	1	4	1	0.5
39	Styrene	20	—	—	10	—	—

## Permissible Concentrations of Air Pollutants (Continued)

No.	Pollutant	Permissible Concentration of Pollutants in Micrograms/cu m					
		Areas			Specially Protected Areas		
		30 Minutes	24 Hours	Mean Annual	30 Minutes	24 Hours	Mean Annual
40	Carbon monoxide	5,000	1,000	120	3,000	500	61
41	Toluene	300	200	50	100	50	13
42	Trichloroethylene	400	150	60	50	10	1.2
43	Vanadium <sup>16</sup>	—	1	0.25	—	0.1	0.0005
44	Carbon	150	50	8	50	20	4

NOTE: The permissible concentrations of air pollutants are considered as adhered to if their values, as tabulated above in columns 3, 4, 6, and 7, are at most exceeded by a factor of two for 0.2 percent of the time during a year with respect to 30-minute concentrations and for two percent of the time during a year with respect to 24-hour concentrations.

<sup>1</sup> in aerosol form

<sup>2</sup> in soot suspension

<sup>3</sup> in soot suspension

<sup>4</sup> NO<sub>3</sub> compounds in soot suspension

<sup>5</sup> degree of oxidation + in soot suspension

<sup>6</sup> HCN compounds

<sup>7</sup> in form of fluorine and water-soluble fluorides

<sup>8</sup> as sum of cadmium and its compounds in soot suspension

<sup>9</sup> in aerosol form

<sup>10</sup> in form of gas and aerosol

<sup>11</sup> in soot suspension

<sup>12</sup> Cu compounds in soot suspension

<sup>13</sup> in soot suspension

<sup>14</sup> as sum of lead and its compounds in soot suspension and in aerosols

<sup>15</sup> in gaseous phase and in soot suspension, as sum of

<sup>16</sup> in soot suspension

## Permissible Fallout of Air Pollutants

No.	Pollutant	Areas	Specially Protected Areas
1	Cadmium*	10 mg/sq m/year	10 mg/sq m/year
2	Lead**	100 mg/sq m/year	100 mg/sq m/year
3	Dust, total	200 g/sq m/year	40 g/sq m/year

\* as sum of cadmium and its compounds

\*\* as sum of lead and its compounds

## Supplement No. 2 to the Executive Order of the Minister of Environmental Protection, Natural Resources, and Forestry of 12 February 1990 (Item 92)

## Permissible Limits on the Emission Into the Air of the Sulfur Dioxide, Nitrogen Dioxide, and Dust Arising in the Process of the Combustion of Coal at Power Plants, in Grams/GJ

Fuel	Furnace	Facilities								
		Group A			Group B			Group C		
		SO <sub>2</sub>	NO <sub>2</sub> *	Dust	SO <sub>2</sub>	NO <sub>2</sub> *	Dust	SO <sub>2</sub>	NO <sub>2</sub> *	Dust
1	2	3	4	5	6	7	8	9	10	11
Black coal	Stationary grate furnace	990	35	1,850	720	35	1,370	650	35	1,370
Black coal	Stoker	990	160	800	640	95	600	200	95	600
Black coal	Coal-dust furnace with liquid ash removal	1,240	495	170	870	170	90	200	170	90
Black coal	Coal-dust furnace with dry ash removal	1,240	330	260	870	170	130	200	170	130
Brown coal	Coal-dust furnace with liquid ash removal	1,540	225	140	1,070	150	70	200	150	70
Brown coal	Coal-dust furnace with dry ash removal	1,540	225	195	1,070	150	95	200	150	95
Coke	Stationary grate furnace	410	45	170	410	45	235	410	45	235
Coke	Stoker	500	145	310	250	145	235	250	110	235
Fuel oil	Installed capacity	1,720	120	—	1,250	120	—	1,250	90	—
Fuel oil	Installed capacity 50-MW boilers	1,720	160	—	170	160	—	170	120	—



**Permissible Limits on the Emission Into the Air of the Sulfur Dioxide, Nitrogen Dioxide, and Dust Arising in the Process of the Combustion of Coal at Power Plants, in Grams/GJ (Continued)**

Fuel	Furnace	Facilities								
		Group A			Group B			Group C		
		SO <sub>2</sub>	NO <sub>2</sub> <sup>*</sup>	Dust	SO <sub>2</sub>	NO <sub>2</sub> <sup>*</sup>	Dust	SO <sub>2</sub>	NO <sub>2</sub> <sup>*</sup>	Dust
Natural gas	Installed capacity	—	60	—	—	35	—	—	35	—
Natural gas	Installed capacity 50-MW boilers	—	145	—	—	85	—	—	85	—
Wood	Grate furnace	—	50	—	—	50	—	—	50	—

\* denotes the sum of nitric oxide and nitrogen dioxide converted to nitrogen dioxide

The quantities given in the above table should be applied to facilities with an installed capacity of upward of 0.2 MW<sub>t</sub>.

The quantities given in the above table concern the emission of pollutants relative to the chemical energy flux/the mathematical product of the consumption of fuel and the calorific value of that fuel/introduced in the fuel into the power generating process.

New facilities must meet the requirements specified for Group C.

New facilities are considered to be:

—Facilities put into operation after 31 December 1994.

—Facilities whose construction commences after this Executive Order takes effect.

As for the facilities existing on the effective date of this Executive Order: During the period until 31 December 1997 they must meet the requirement specified for Group A; and after 31 December 1997 they must meet the requirements specified for Group B—these requirements are considered to be satisfied in the event that they are met with respect to overall emission from all activated sources prior to the effective date of this Executive Order.

Facilities which do not qualify for the above classification must by 31 December 1997 meet the requirements for the facilities existing after that date, and after 31 December 1997 they must meet the requirements for Group C.

**END OF**

**FICHE**

**DATE FILMED**

10 Oct. 1990

